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Vol. II

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1933

No. 342

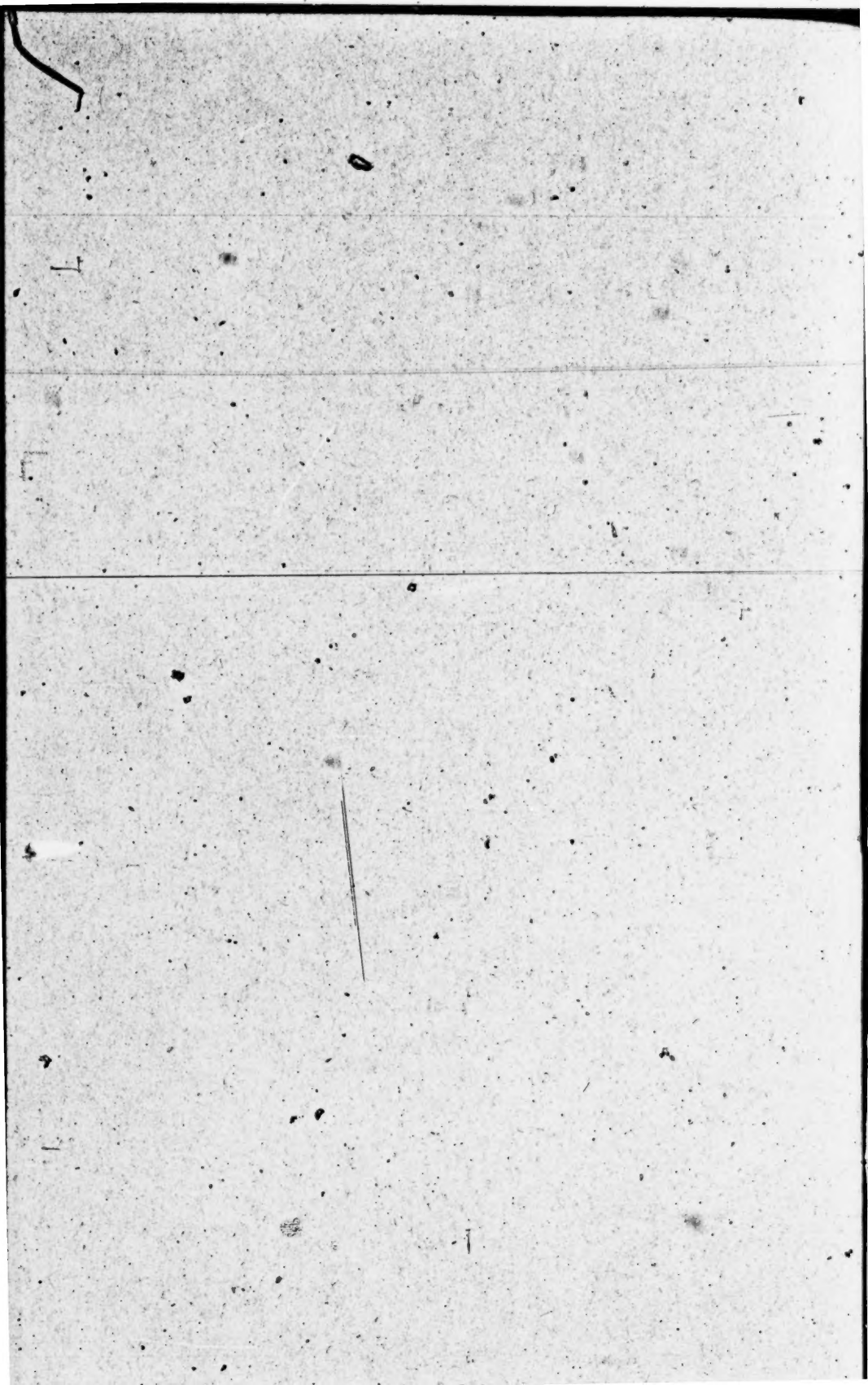
STATE OF FLORIDA, EUGENE S. MATTHEWS, MAMIE EATON-GREENE, AND W. B. DOUGLASS, ETC., ET AL., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, GEORGIA PUBLIC SERVICE COMMISSION, AND ALANTIC COAST LINE RAILROAD COMPANY

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA

FILED AUGUST 14, 1933



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By Mr. Adair:

Q. Do you recall whether or not you said substantially to Mr. MacPherson that while the freight on the citrus fruit, vegetables, mellons and so forth would appear to be more compensatory than the old freight rate on logs in reality you were just about breaking even on the citrus fruit and the like, due to the claims which you were forced to pay shippers and that the log movement was more profitable and more economical to handle from an operation standpoint.

A. I possibly said there were less claims on logs than there were on citrus fruit.

Exam. Hoy: I don't see by this testimony what you expect to proye by the superintendent of transportation as to what is the most profitable business on the road. It seems to me that you are going far afield on cross examination on this man's testimony too.

Mr. Adair: I am, your Honor, but I don't think——.

Exam. Hoy: I suggest if you are going to ask any more (Tes. p. 1139) question- like that, that you call him as your witness and just ask him all you want.

Mr. Adair: Your Honor I do not desire to pursue that any more but I do care to prove by another witness that such a statement has been made, and I was asking him and [fol. 1111] giving him an opportunity to explain it.

Exam. Hoy: I don't think it is material anyway; as to what is the most profitable business on a railroad is proved by the statements of the superintendent of transportation. That is the way it strikes me; and I don't think we ought to go into this any further.

Redirect examination:

As to how many cars are in the train from Hines to Palatka, it runs from 40 to 45 cars loaded. We render no other terminal service on these logs shipments than at Palatka. As to whether I recall terminal services on any other shipments of logs at any other places than Palatka, practically all terminals where the log movement passes through. (Tes. p. 1140). I shall state those terminals that are in my mind right now. Of course the movement at the present time is very few. We only have at this time a

movement of course from Hines to Palatka, that is the solid train movement. We have a movement from Astor and Astor Park to Loughman and Jacksonville. Those logs would pass through Sanford going to Loughman where we have terminal facilities and the cars are weighed at that point and of course the cars coming to Jacksonville we would have Sanford and Jacksonville terminals for handling that shipment. We also have a movement from Tarrytown to Loughman. That can move Trilby and Lakeland, where we have terminals or through Sanford where we have terminal facilities at Sanford. Those cars are weighed at those terminals. We have another movement about six cars a week from Clara, Micanopy and Gainesville to Perry. The cars moving from Micanopy and Gainesville, I will say Micanopy first, move through High [fol. 1112] Springs where we have terminal facilities and those moving from Gainesville we have switch engines at Gainesville and also at High Springs. The movement from Clara to Perry would not move through any terminal. They are (Tes. p. 1141) the only logs that are moving at this time. At the present time the character of the movement of logs is what I regard as very abnormal, the lowest that I have seen since I have been in Florida. I attribute that to depression in business I should think, and two of the largest mills of course we had moved to the timber, which are the Brooks-Scanlon mill and the Putnam Lumber Company.

Q. Does that depression or lack of movement in logs at the present time extend over the entire State of Florida?

Mr. Gwathmey: Do you want to object to this question?

Mr. Adair: I do not think he is qualified as to what the depression has done for the lumber business.

Exam. Hoy: He says in his opinion that the loss of movement of logs in Florida over the Coast Line, he is talking about is due to a pretty general business depression, and the fact that two of the largest mills moved to the timber. That was answered. Now, the question to answer of Mr. Gwathmey's is whether the decreased in the movement of logs is general over the entire State of Florida. That is as I understand it (Tes. p. 1142).

Mr. Gwathmey: I would like to have the question read.

Exam. Hoy: Read the question, Mr. Reporter.

(Question read by the reporter.)

[fol. 1113] Mr. Gwathmey: I withdraw the word "depression" and say lack of movement, if that appeals to the gentlemen better.

Exam. Hoy: Decrease or lack of movement of logs to that extent throughout the State of Florida, or local to some sections.

A. Extends over the entire state, so far as the Coast Line is concerned. When I say the condition applies to the Atlantic Coast Line I mean that I am not familiar with the situation on other roads in Florida. I am not prepared to say whether or not there has been (Tes. p. 1143) a falling off in the movement of logs on other lines in Florida than the Atlantic Coast Line.

Cross-examination:

I have been a resident of Florida since 1910. As to when the "boom" in Florida ended and the severe depression that followed it began, the depression began early in 1926, as to the Florida situation. As to the general situation over the country, I am not familiar with anything except Florida. My jurisdiction embraces the branch line Jacksonville to Eastport. As to whether, upon the closing down of the mill at Eastport my company did or did not promptly thereafter give notice that no longer was that branch line available for the use of the public, I am not in position to say because at that time I was not superintendent of transportation. I came here in April 1930. I was at that time superintendent at Ocala. I am not in position to say just what notice was extended. (Tes. p. 1145) I do not know whether there was a notice extended. I am not familiar with that. As to whether I know what if any use was made of that branch line for any purpose whether for public or not, subsequently at any period of time after the closing of the mill, I was not here and was not familiar with the handling of that line during the time that the mill was here. My fa- [fol. 1114] miliarity with it has been actual since 1930. We have used the line for the handling of government rock; that is non-carrier transportation; we are handling some boulders for use in the construction of break-water for the government. That is the rock I speak of. That line is open at the present time, for public use I suppose. We are handling revenue business over it at the present time, government business, that is revenue (Tes. p. 1146). Rock work

for the government is all at the present time. We have not been maintaining that branch line at a point of normal maintenance with a view of its use by the public. It had to be repaired and put in condition when we started using it. We had permitted it to become undermaintained until this government rock began to move. Repairs had to be made on account of the size of the cars and weight. As to whether up to that time we had not undertaken to maintain that branch, I think that my answer there—to the previous questions—would answer your question. I spoke first of the making of particular repairs for this rock owing to the peculiarities of the rock movement; except for that type of repairs I would say that we have not been maintaining that branch normally. However, I am not familiar and have nothing to do with the maintenance part of the line. That comes under the head of the Engineering Department. As to whether we are maintaining any ordinary roadway facilities on that branch for the handling of freight, (Tes. p. 1147) there has never been any facilities there except the track. We have provided none for any other traffic. The line was built I understand for the handling of lumber only; there are no other facilities there. So far as [fol. 1115] I know none exist now except this particular rock handled for the government. I am not myself in any way familiar with the approximate capital cost of that branch line which in that was has now been about abandoned. When I spoke of the prior construction and use of that branch for lumber, of course I meant logs and lumber and mill supplies (Tes. p. 1148).

[fol. 1116] Exam. Hoy: We will now hear from the intervenors. Mr. Lamb will resume the stand when his new exhibits are ready.

ARTHUR G. CUMMER, recalled as a witness, having been previously sworn, testified as follows:

I am the same Arthur G. Cummer who formerly testified in this case. We commenced our saw mill operations at Milldale here near Jacksonville in 1897, and continued until November 1918. We had cut out all of our pine timber suitable for sawmill purposes, and on November 7, 1918, we leased the saw mill, pla-ing mill, yard, docks and

so forth to the Putnam Lumber Company, retaining and operating only our box and crate factory. We had a lease with the Putnam Lumber Company that we figured netted $60,000 a year for lease of our plant. (Tes. p. 1149?) The lease with the Putnam continued until the fall of 1926.

Q. Now, please tell me whether or not you and Mr. Fleishel on behalf of the Putnam Lumber Company had any negotiations with the Denkmann Lumber Company and its officers with respect to the leasing of that plant to the Denkmann interests and the sale of the Putnam timber to the Denkmann interests.

A. We had nothing to do with the sale of the Putnam timber but, in 1926—in the spring of 1926, Mr. Fleishel of the Putnam Lumber Company asked if we would enter into negotiations with some yellow pine manufacturers of Louisiana who were then going over his timber with the view of purchasing, and who wished to locate a manufacturing plant in Jacksonville. We went into these negotiations and after several months agreed upon a contract with the Denkmann Lumber Company whereby we were to receive $300,000.00 in cash for our saw mill, yard, planing mill, docks and box factory, and extended payments in the [fol. 1117] form of a lease for the real estate on which the plant stood. This lease extended over a period of 24 years and provided payments on a sliding scale ranging from $50,000.00 to $35,000.00 annually. The total payments under the lease was $936,000.00 and it represented not only a rent on the land but a payment on the improvements. The Denkmann Lumber Company were to pay all taxes on the property; therefore (Tes. 1150) the return to us under this contract would have been $1,236,000.00, representing the sale price of our plants, and rent of the real estate.

The contract and various supplemental contracts were all prepared and ready for signature. In April, 1926, during the negotiations with the Denkmann Lumber Company, the Georgia Public Service Commission filed its complaint against the Atlantic Coast Line Railroad before the Interstate Commerce Commission. Naturally this resulted in doubt on the part of the Denkmann Lumber Company, who, however, were anxious to go on with the deal not only for our plants but for the Putnam Lumber Company's timber holdings. After several unsatisfactory interviews with the officials of the Atlantic Coast Line Railroad in which

Denkmann Lumber Company, Putnam Lumber Company and Cummer Lumber Company took part, the Denkmann Lumber Company called the deal off, as they were not willing to go on with any increase in the existing log rates.

As to what became of that trade, I was not at the conference. Mr. Fleishel can better answer that than I can. It was the log rates absolutely. As to during the pendency of this proceeding—now, what happened to our rearrangements with the Putnam people, (Tes. p. 1151) the Putnam Lumber Company's lease had expired, that is it expired [fol. 1118] but they renewed it for a two year period. It expired on December 1, 1926, and they notified us that they would not go ahead with the extension of the lease and by mutual agreement we gave them until November, 1927 to vacate the property and get their lumber off and all that. They did that. As to other operations they built their mills down in the woods. They built their mill down in the woods while they were still operating our mill in 1926 and 1927. As to what happened to our plants at Milldale, it was of no value thereafter from an operating standpoint, and there was nothing left for us to do but to "junk" the physical property, which we did immediately on the cancellation of the Putnam Lumber Company lease. The salvage value of the entire plant was $54,357.43 and the value of the real estate has been determined by Federal authorities to be $115,800.00, or a total of $170,157.43. We now have nothing left at Milldale but the bare land. The decision of the Interstate Commerce Commission in the Log Rate Case caused us to lose not only the sale of our manufacturing (Tes. p. 1152) plants and the lease of our mill site, but threw a great number of men out of employment, and totally wrecked the thriving little community of Milldale where our plants were located. Many of our employees owning their homes, have suffered a severe loss through the shutting down of this manufacturing plant.

Mr. Alston: If your Honor please, we object to the statement that has just been made by the witness because they are conclusions, because they are irrelevant, because they are not supported by any statement of facts.

Mr. Gwathmey: Further, Mr. Examiner, upon the grounds that losses may or may not have been incurred by [fol. 1119] these gentlemen as a result of the Commission's decision and have no bearing on this case excepting only

as they go into the question of the tonnage of logs which they may or may not have delivered to the railroad to handle.

Mr. Norman: Mr. Examiner, the position certainly in these questions was taken into consideration. The Supreme Court has said on those questions of benefit or injury to the public, to the carrier, to the consumer, that a reasonable man would take into consideration. Certainly it is competent to show whether a given action causes more harm than good.

Exam. Hoy: The objections will be overruled, you may continue.

A. (continued:) It is quite impossible to estimate the loss (Tes. p. 1153) to the city of Jacksonville by the removal of the Brooks-Scanlon and Putnam Lumber Company saw mills, and so forth, and I seriously doubt if the community will ever be able to build up new industries sufficient to offset the payrolls and other expenditures made in Jacksonville by these lumber companies.

Mr. Alston: Those latter statements are irrelevant.

Mr. Adair: If your Honor please, the city of Jacksonville as a municipality is in this case, as I recall it.

Exam. Hoy: I think it is going a little far but, it is his opinion of course, that all these things are happening or will happen.

Mr. Adair: Has happened.

Exam. Hoy: You may continue, Mr. Cummer.

The Witness: That is all I have to say.

About this box factory that we were operating out there during the pendency of the Putnam Lumber Company—at the time the Putnam Lumber Company cancelled their lease we were employing 193 men in our box and crate factory. [fol. 1120] That was in addition to the men employed by the Putnam Lumber Company in operation of the mill at Milldale (Tes. p. 1154). I testified at the former hearing as to what we were then carrying our Milldale plant upon our books at. It was somewhere around $1,250,000 as I recall it; it is in the testimony, however. As to the capacity of our saw mill at Milldale we cut about 36 million (feet) a year; I don't know how much the Putnam cut out of it. When we were operating we cut about that much. I presume they cut that much, possibly more. That is in the day shift, you understand, the single day shift. I testified

at the former hearing I believe that the Cummer Cypress Company of which I am an officer, has a plant at Lacoochee, Florida. As to when that was constructed and something about its operation, in 1923 we built a modern lumber and box plant at Lacoochee, Florida, choosing this location in order to manufacture a rather large tract of cypress and pine timber adjacent; and three smaller groups located near Otter Creek, Homosassa, and on the Withlacoochee river just north of (Tes. p. 1155) Lacoochee. As to what has become of that timber and where we were working at the time that this order of the Interstate Commerce Commission became effective with respect to intrastate rates on February 8, 1929, we were operating at Lacoochee and some of our timber came from our holdings adjacent to the saw mill, and which we handled over our own logging road, the balance came from Otter Creek and Homosassa. When the high rate went into effect in 1929 we had a contract, at least we thought it was a contract with the Coast Line to handle these logs in train load lots to our mill at Lacoochee and we had to continue to operate the tract at [fol. 1121] Otter Creek and Homosassa. As to how many feet we had left in those two tracts when the high rate went into effect, it would be pretty hard to say. I don't know about Otter Creek. We handled most of the Otter Creek before the Interstate Commerce Commission made their decision, before the order became effective, but Homosassa I do know that we did not cut out our estimates there because the high freight prevented us from shipping a great deal of logs that we would have shipped under the old rate. Of course logs are just the same as any (Tes. p. 1156) commodity. I have some timber that will stand $100 a thousand freight and I have some that will only stand 2 or 3 cents and the thing has to be an average in order to ultilize the timber. When the higher rate came we had to leave some stuff in the woods that could not pay the freight. As to our Withlacoochee timber, we had a tract of about 75,000,000 feet of timber on the Ostaloochee river adjacent to our mill which we expected to log over the Atlantic Coast Line Railroad but after our experience in Homosassa the fact that we would have to leave a great deal of timber in the woods, we built our own logging road and are handling it in another manner. We are not transporting that over the Coast Line at all and that was about 75,000,000 feet. That logging road does not go all the way into our timber.

It runs within a few miles and then we handled over the Seaboard the balance of the way. We did that because of this advance log rate; we figured we could build our own logging road and make these other arrangements, and get all of our timber that we could not on this other higher log rate (Tes. p. 1157). We could not afford to cut the timber clean and haul it on the new rate. I have here a memorandum of the amount that our Cummer Cypress Company has paid to the Atlantic Coast Line Railroad Company in recent years for the transportation of logs. I [fol. 1122] will state it by periods and sources. From January 20, 1926, through December, 1926, our log freights were $46,506.15. From January, 1927, through December, 1927, our log freights were $58,011.75. From January, 1928, to May 5, 1928, $15,743.50, and that is a total of $120,-261.40. Those logs were all from Otter Creek to Lacoochee. I will give some of the others. We did not start logging operations at Otter Creek until January 20, 1926. Our shipments through that year of 1926 were $46,506.15; then for the entire year of 1927 there (Tes. p. 1158) were $58,-011.75, and from January, 1928, to May 5, 1928, there were $15,743.50, a total of $120,261.40 all coming from Otter Creek to Lacoochee.

Then, in April, 1929, we shipped from Homosassa to Lacoochee, Florida, from April, 1929, through December, 1929, $75,409.30; and in January and February, 1930, $2,200.59. This is a total of $77,609.89. And then, if you gentlemen will refer to exhibit 61 you will find that that is approximately within a few dollars of that amount that Mr. Perrin stated we had moved on that rate, within a few dollars. We shipped from Homosassa to Otter Creek, Florida, from January, 1929, through December, 1929, $11,-151.29; and in January and February, 1930, $2,355.80, a total of $13,507.09. We shipped those logs from Homosassa to Otter Creek because it was a lower freight rate. Logs that we could not ship to Lacoochee, we had a little plant at Otter Creek and we shipped them to Otter Creek in order to utilize more of the timber. The freight from Otter Creek to Homosassa is less.

We discontinued shipping logs over the Atlantic (Tes. p. 1159) Coast Line Railroad Company in February, 1930. [fol. 1123] We are shipping nothing now. There are a few cars but they are nothing—we are not making any ship-

ments ourselves; we are handling a few cars that come in from mills within 10 or 15 miles—or some timber that is from 10 or 15 miles that sell us their logs but we are not operating any of our timber over the Coast Line. The longest haul, I think is 18 miles. We are still continuing to operate our mill at Lacoochee. We are now hauling the Withlacoochee timber by our own logging road plus a short haul on the Seaboard. We intended to cut and log that and transport that in trainloads over the Atlantic Coast Line Railroad had it not been for this increase in rates. That was the intention when we located the mill at Lacoochee, because it was within reach. Otherwise we would probably have located it (Tes. p. 1160) some other place.

Cross-examination.

By Mr. Price:

We have competitors in this territory in the logging business. We are in the cypress lumber business. Yes, we have competitors not only in this territory but all over the United States, and in Florida. What do you mean, mills that cut lumber in Florida?

Q. Yes. Your class of business?

A. Yes. As to whether they are located on the Coast Line Railroad, I think the Wilson Cypress Company is located on two roads. We are not located on the Coast Line Railroad alone. As to whether we are handling any logs over the Seaboard or the Florida East Coast, I just testified that we are handling logs over the Seaboard now. As to whether the rates the same now as what is known as the Cummer scale, I don't know about that (Tes. p. 1161). I don't know whether the Seaboard and the Florida East [fol. 1124] Coast rates are higher or lower than the Cummer scale. As to whether the Denkmann Lumber Company contract expired in 1926, the contract was on the basis that they could extend every two years, and it happened the two year period running out the year this complaint on the part of the Georgia Public Service Commission went into effect, and they cancelled then—cancelled immediately. They did not extend it in other words did not extend their contract or their lease another two years. That was because the complaint had been filed. After the hearing we were notified that the lease would not be extended. As to

when the Interstate Commerce Commission ordered the new rates into effect, I think it was, I know it was along in 1929, approximately three years after this time that they had refused to extend the lease (Tes. p. 1162). I understand from that that they would not be willing to contract for timber where the rates were in litigation. They would not be willing to go ahead with their trade—you are talking about the Denkmann Lumber Company. They would not buy either the Putnam Lumber Company timber or our saw mill plant as long as this rate was put in the air and there was a chance to advance the rate. I don't think that I or anyone would go out and contract for timber if the rate was in litigation. As to whether there is any reason why I or the Putnam Lumber Company could not operate and pay the log rates if they were the same our competitors were paying, and our rates were all the same in amount, our mill at Lacoochee is located a considerable distance away from the eastern markets as compared with Perry, and up in there. They have a lower freight rate to the markets than we have. You were speaking as to our logging costs, but they all enter into the cost of the product, Mr. Price (Tes. p. 1163); it does not make any differ- [fol. 1125] ence whether logging costs or what cost. Lumber costs so much money; if we have to pay a higher rate to get it to the market we can not compete. As to whether one of our primary costs is our logging costs; the new freight rate is one of our primary costs; yes. If the new rate was uniform throughout the State of Florida or throughout the Southeast that would operate against us, certainly, if a mill is located so that they do not have to ship in, if they have some timber adjacent to the mill that they can operate. The Wilson Lumber Company had timber on the river and we had timber at our plant near Lacoochee that we were not paying anything like this high freight rate on.

Q. That does not exactly answer the question, Colonel. I am asking now as to a uniform rate on logs.

Exam. Hoy: Do you mean uniform scale of rates?

Mr. Price: Yes, uniform scale of rates.

Mr. Cotterill: I think the question would still be ambiguous to the witness. Mr. Price perhaps intends to—meant to tell the witness whether he was speaking of a (Tes. p.

1164) like rate for the same haul or a difference in rates for a difference in hauls. I am sure the witness would not understand the question without knowing that.

By Mr. Price:

Q. If your rate, Mr. Cummer, is the same as your competitor's rate for an equal distance, and that rate applies to all lumber manufacture for that distance, and throughout the territory, is there any reason why you could not operate on it?

A. That is a hypothetical question because there is no condition existing like that; some of us pay a higher rate and some a lower rate, depending on the mileage.

[fol. 1126] Q. I am speaking now as to the same mileage?

Mr. Cotterill: What mileage, Mr. Price?

Mr. Price: Any given mileage.

Mr. Cotterill: You mean each man shipped 5 miles?

Mr. Price: Yes.

A. I think so many items enter into that; quality of timber, cost of logging, all those things enter into it Mr. Price. Now I am talking about cypress lumber. Cypress lumber of a very high quality, yes, you could compete but perhaps if the quality was a lower quality you could not compete. As to whether I could pay as high a rate as our competitor, yes, all things being equal, but so many conditions enter into it that you can not make that statement (Tes. p. 1165).

Cross-examination.

By Mr. Alston:

As to the contract for the leasing of the property at Milldale to the Putnam Lumber Company, we had our property under lease to the Putnam Lumber Company, yes; that was made on November 7, 1918. It expired on December 1, 1926. As to whether there was any privilege of earlier renunciation, yes; it was extended after I think, six years in two year periods, that is to say the end of each—it was a contract for six years if I am not mistaken, then after that the Putnam Lumber Company had the privilege of extending it for two year periods. That meant (Tes. p. 1166) more than one two-year period. As to how long was the last extension, it was very indefinite; they could extend

it two years. They could have gone on indefinitely, beyond 1926. It was first made in November, 1918 on six years or eight years—I have not a copy of the contract. I would [fol. 1127] not be sure whether it was a contract for six years or—I know it had an extension period of two years any period. It has extension rights in periods of two years and the duration of those periods is indefinite. As to when the Putnam Lumber Company indicated that they were not going to make any renewals beyond 1926, I think it was right after the Valdosta hearing.

Q. Then whenever they announced to you that they were going to move to the woods?

A. Well, they said they were not going to extend their contract after that 1926; I don't know that they told me when they were going to move to the woods. As to when they began preparing to move to the woods (Tes. p. 1167), I really do not know the date but I know they gave up our property in September, 1927; and this Interstate Commerce Commission order went into effect February 9, 1929.

Q. Now, did I understand that you discontinued the shipment of logs in February, 1930, over the Atlantic Coast Line?

A. From our own logging operation, we may be getting a few logs from outlying points, nearby points, 10 or 11 miles from Lacoochee over the Atlantic Coast Line now. As to whether we are now getting them over the Atlantic Coast Line I don't know. We may possibly be buying some few logs over the Atlantic Coast Line in less than train load lots even today for a movement of 18 or 20 miles.

Q. Other than that you are not getting logs over the Atlantic Coast Line. Are those logs from your own lands or logs that you have purchased?

A. Logs we purchase, not from our own lands, they are contract logs. I do not remember the attitude of Mr. Fleishel of the Putnam Lumber Company in reference to [fol. 1128] moving into the woods (Tes. p. 1168). As to whether I know that it was his opinion that the mills should be in the woods, well, I know the Denkmann Lumber Company were very anxious to make a contract with us to stay in Jacksonville. I don't know Mr. Fleishel's attitude. I know that he was very anxious to get this contract with the Denkmann Lumber Company and they were going to locate in Jacksonville. Our companies are the Cummer

Lumber Company and the Cummer Cypress Company. Their properties are not contiguous. We have no property in the Cummer Lumber Company now, our plants have all been dismantled, but we have got timber. The Cummer Cypress Company has its holdings. There is a statement in the record as to the Cummer Cypress Company's holdings at the time the evidence (Tes. p. 1169) was given, sometime about 1926 or 1927. As to whether those holdings are substantially the same now or have we increased them, we have increased the stuff adjacent to the mill perhaps a little, but we have not bought any other timber to add to that operation. As to how much land and how much timber we own, we had approximately at the time of that statement I think between about 400,000,000 feet of timber at the time we made these statements. We have less now I suppose; we have been cutting for three or four years. We have been cutting all that we bought. Our company has no timber anywhere else in any other part of the State. The Putnam Lumber Company owned a very large tract of timber, but I am not positive about that. I can testify now that they do own a very large amount of (Tes. p. 1170) timber, the same kind of timber that they owned before and the same locations I presume. Mr. Fleishel will be able to testify to that however. We have not had any transactions with the Wilson Cypress Company; we have with the Wilson Lumber Company. We have sold them some hardwoods, not cypress. As to whether the Wilson Cypress Company still have large hold-
[fol. 1129] ings, Mr. MacPherson is here; he knows about their holdings. Generally I know it too. I don't know whether the Wilson Lumber Company have large holdings. I do not know anything about their holdings at all, but I think some of them are here to testify to that; I don't know. Generally I could not testify myself (Tes. p. 1171). I am familiar with the standing timber situation in this state other than in these localities occupied in the northwestern part of the peninsula of the state in a general way. There are large tracts of timber still standing. The gentlemen you have mentioned have considerable quantity of timber standing. As to whether there are still large tracts other than those, I think your man testified this morning that there was some timber in Lee County that we know of. I would not say there is a great deal of timber over the state of Florida, no, sir. I know the large mills in

the state in a general way. As to whether I could state those mills and their location as near as practicable, well I know more about the cypress mills than I do the yellow pine mills because I am in the cypress busines now. I will give what knowledge I have. There is the Burden-Swartz Lumber Company at Perry; the (Tes. p. 1172) Brooks-Scanlon Corporation; Putnam Lumber Company; Wilson Lumber Company; Wilson Cypress Company; Everglades Cypress Company; J. Ray Arnold Lumber Company—all of those are manufacturing cypress lumber with ourselves. The Osceola Cypress Company. The Everglade is at Loughman, the Arnold mill at Groveland; the Osceola is on the East Coast; I have forgotten the name of their town. They are large manufacturers and I presume they have large timber. I do not know the mills at Sears, at Sherman yes, Sherman Lumber Company; I don't think they [fol. 1130] are cutting any cypress however. I think they are cutting yellow pine (Tes. p. 1173). I do not know anything about the extent of their holdings. I know of a lumber plant at Holopaw, in that neighborhood, in a general way. The Griffin Lumber Company at Holopaw. They are in the yellow pine business, however. I really don't know whether there are two or three companies in that locality. As to whether I know whether or not they have large tracts, well, they have fairly large mills; I presume they have timber behind it to warrant the investment. There are a number of saw mills cutting principally yellow pine, however. We have not been in the yellow pine business for 15 years and I am not very familiar with the yellow pine operators. Those mills are owned by persons other than the people I have mentioned. As to whether they have plants in the northern part of the state, I think the Arnold—J. Ray Arnold Lumber Company—had plants in the northern part of the State between here and Lake City; between here and Watertown on the Seaboard (Tes. 1174). As to whether the Atlantic Coast Line tracks that tract too at one end, possibly on the old Jacksonville and Southwestern division; it may run close to that timber, although their mill is located on the Seaboard. Really I do not know the yellow pine manufacturers in Florida. No, I did not speak of the depression. Yes, there is a depression in business in general and there is a depression in the lumber business. It is right sharp in both general business and in the lumber business. Our lumber

business has not been depressed quite as long as two years. We had a very satisfactory shipment the first six months of last year, 1930. That demand was not general in Florida but it was the Eastern demand (Tes. p. 1175). I mean the northeastern part of the country above Washing- [fol. 1131] ton.

Q. And the Coast from Baltimore to Portland, Maine?

A. Well, we don't ship so much on coastwise cities; we ship interior into New Jersey and territories like that, Pennsylvania and Western Pennsylvania. We do not meet the Georgia people as competitors in those markets. I don't think there are any cypress operators in Georgia. The Florida depression of course came on a little earlier, as the evidence is, in 1926. The capacity of our output of lumber now as compared with several years back is the same. We had been running for the past three or four months on three days a week. We are not running now full capacity. The capacity of our mill is the same but we have been operating for the past several months, operating three days a week, therefore we are cutting half of our capacity; (Tes. p. 1176) the full capacity for three days. We have a demand for our present output, yes.

By Exam. Hoy:

Q. You say you received a few contract shipments, have since February, 1930, I mean shipments of logs, or may have?

A. We may have. If you will notice this exhibit 61 gotten up by Mr. Perrin, the shipments to Lacoochee included a few cars from nearby stations to Lacoochee. I presume some of that business is still continuing. We don't pay the rates on that business at all; we buy the logs delivered. We do not do the logging or anything. Someone makes the price delivered at our plant. Since February, 1930, we are using our logging road. We expect to continue to. (Tes. p. 1177).

Q. No matter what the rates are?

A. Well, yes sir; because we have already put in that [fol. 1132] investment and we could not scrap that now. We have scrapped enough stuff in this now, and we have scrapped our plant here near Jacksonville. We are not running out there. As to whether we expect to build any other lumber mill there, I should say not; no matter what the rates are.

Redirect examination.

By Mr. Adair:

What caused us to build that logging road was that we could not afford to pay this increased rate on the Coast Line Railroad. That was the rate prescribed by the Interstate Commerce Commission. The rate of course at the time we had to decide this operation of course it was last year, that the rates prescribed by the Interstate Commerce Commission was in effect, and we went to the Coast Line and found that was the (Tes. p. 1178) rate and it was necessary for us to make other arrangements. I testified that during the last three or four months we have been running for half capacity; that the first six months of 1930 was pretty good business; we had very satisfactory business; in 1929 I don't know sir; we shipped our entire output. You see, with cypress we have to keep it in stock for a couple of years, from a year or two years, keep it in our piles, and I don't know as we shipped our output in the year 1929 but that may have been because our lumber was not seasoned, something like that. That was a fair business year in the lumber business. The bad depression in the lumber business did not come until the last six months of 1930; that is our experience; I don't know whether anyone else felt the same way about it or not. The plant I spoke about at Sears or Sherman is down at the far end of the state; that is my impression; that the Sherman Lumber Company were formerly in the yellow pine business in West Florida and [fol. 1133] moved their operations to South Florida. (Tes. 1179).

Q. Down around near Fort Myers?

A. As I say, I don't know anything about the yellow pine operators. I was in the class once and I guess I am below it now.

As to our ability to ship logs on a parity of rates with our competitors, and as to whether either we or our competitors could ship it, depends upon the level of the rates, I should think. As to how the level of the rates affects our ability to ship to a distance, well of course the cost of our product depends upon what distance we can ship it in competition with others and the higher the cost the less distance we can

afford to meet competition. We have competition you know with the Pacific Coast lumber that comes around through the Panama Canal at six or seven dollars a thousand feet. In the last several years that has really fixed the price, that Pacific coast lumber.

Q. So even had you gone in the Eastern markets the Pacific coast has fixed it?

A. I mean practically all markets. They had it down here in Florida you know. During this boom we were competing with (Tes. p. 1180) the Pacific Coast lumber in Florida, the kinds of lumber from the Pacific Coast are fir, redwood and other lumber and our cypress competes with redwood. As to whether it competes with fir, well there are certain grades of our cypress that compete with every wood; the low grades compete with any wood, the yellow pine and Georgia pine certainly do. I don't see why either Georgia pine or cypress has any monop-ly on the lumber business, I wish we had.

Q. (Exam. Hoy:) I understand how it fixes the price, because I have had personal experience myself where if I want [fol. 1134] to go out and buy Georgia yellow pine I pay 7 cents per foot, however, if I want to buy North Coast fir I pay 4½ cents per foot in Washington. I just want to get down to whether the North Coast does fix the price?

A. Certainly.

Q. And I bought some cypress and it was even higher than the Georgia pine?

A. That is true too, but that is a different grade; I suppose you pay more for one pair of shoes than you do for another don't you. (Tes. p. 1181)

Q. Well, I was figuring on the same grade, both common, what they call common. I suppose some of it was more common that the others I think.

Q. A. Well, it is purely a matter of values I think, Mr. Examiner. You can pay any price; you can buy mahogany for more than you pay for yellow pine if you want to pay the price.

Q. Well, I would like to have you explain a little more fully if you would just how the North Coast lumber fixes the price in the Eastern markets on your lumber down here if you care to?

A. Yes, I would be glad to explain it if you like. Redwood lumber for tanks or anything of that kind you can buy

for less money than you can buy cypress for the same purpose, they are supposed to be equally suitable. Well, if you are buying framing you would not get into cypress at all probably. We do not manufacture framing; we don't manufacture building framing; you might buy North Carolina pine for that purpose, or you might buy yellow pine or you might buy cypress or you might buy fir. If you bought fir you would pay less than for any other wood. In other words the lowest priced lumber in these markets is West coast lumber, certainly. (Tes. p. 1182) If the Southern producer of lumber of any kind wants to compete in [fol. 1135] those markets he must make a price that will enable him to compete with the lower price. As to whether he has got to make the same price as this North Coast lumber, well, I don't know. He has if he sells the lumber of course. You may have been easy; you may have paid more for the stuff than the other fellow would pay but certainly we cannot sell it to the yards for any more than he can buy fir for.

By Exam. Hoy:

Q. I have been easy, but I got cypress—I got prices from three lumber companies before I bought.

A. I understand but he may have thought you had a better idea of the value of yellow pine than he did himself.

Q. My experience was that three of them invariably asked 7 cents a foot for yellow pine and 4½ cents a foot for fir lumber of the same grade, No. 1 grade.

4. Well, they do not pay the yellow pine fellows any more than they can buy the other wood for.

Q. That is what I would like to get cleared up in my mind and for the record. I took it from Mr. Norman's statement, however, the cheapest price lumber will set the price at whatever the Georgia pine or your cypress will have to be (Tes. p. 1183) sold in the Eastern markets but, does it necessarily mean that they have got to get down to that lowest price in order to sell your lumber?

A. Yes. We are trying to figure today on two million feet of cypress to be used in crating by we will say the Pittsburgh Plate Glass Company. They won't pay anymore for that two million feet of cypress than they can buy any other wood for. Why should they? They are going to crate up glass for shipment and why should they pay any more for it? Why should they pay any more for

[fol. 1136] any purpose where they are buying in large quantities?

By Mr. Price:

Q. Do they use pine for that purpose, Mr. Cummer?

A. They do not like pine so well because of the large heavy knots in the pine. The way they handle it, they put it over a machine and cut it to certain lengths which they require, and large heavy knots in the roofers may fall out and they want a little better wood; they use chestnut or any other sound wood that can be handled without too much waste and does not have too many knots in it.

As to how far we can haul logs on the rate fixed by the Interstate Commerce Commission and enter into this competition on the market, (Tes. p. 1184) we do not feel we could haul any distance. We are buying a few logs as I say coming from 18 to 20 miles from our mill but that timber does not belong to us; it belongs to some people who perhaps have a small logging operation or maybe just bring it in by trucks or teams and delivering it to our mill. We certainly could not, nor could any one else, who drew logs in my rail and have paid that scale compete with those mills that are located in the woods operating their own logging road and having to pay no such transportation costs.

Mr. Gwathmey: May I ask Mr. Norman whether you are speaking now with reference to drawing logs into Milldale or Eastport or did it refer to Mr. Cummer's present operations at Lacoochee?

Mr. Norman: I did not refer to any particular place. I referred to the general competitive situation as to whether anyone could pay these rates as prescribed by the Interstate Commerce Commission and compete with those whose mills were located in their timber and had to pay no such [fol. 1137] rates (Tes. p. 1185) wherever they were located.

Exam. Hoy: Well I think Mr. Cummer can speak for himself, I don't see how he can testify that nobody can do it.

Mr. Norman: That was the point of the record before, the burden of showing at that time.

Recross-examination.

By Mr. Alston:

Q: Mr. Cummer would it not depend on how far your mills were from your timber and how far they had to be hauled?

A. Well I demonstrated it pretty thoroughly that we could not haul 30 miles. I mean by that that we could not pay the Coast line for a 30 mile haul on this timber and get it into our mill as compared with what it would cost us to operate the other way, i. e, operating our own logs, our own logging road. I don't think that is a very different proposition from the one I just mentioned. Of course any mill would have to get his logs in the woods. The length of this tram road that (Tes. p. 1186) we operate is 14 or 15 miles. It costs us less than it would to pay the Cummer scale, cheaper to operate our tram road than it would be to pay the old rate.

George W. Lamb, recalled as a witness, having been previously duly sworn, testified as follows:

Direct examination.

By Mr. Alston:

We want to file these other exhibits first. We left off with exhibit No. 87 which dealt with the average mileage 8,136 on the car mile basis. (Tes. p. 1187.)

Exhibit No. 88 which I now file is based on the cost per gross ton mile haul of 160 miles from Perry to Eastport. 169 the revenue under the so-called Cummer scale is $22.10 shown by line 11, the cost of operation excluding taxes [fol. 1138] was $26.78 and by line 16, column (a) $39.73 for the total cost including taxes and return on investment for haulage expenses; column (b) shows the total cost of $59.08. Exhibit 89 which I now file is also based on the cost per gross ton miles covering the movement from Carbur to Eastport 152 miles, the total cost is shown by line 16 being $35.73, the revenue under the so-called Cummer scale $20.30; in column (b) the cost is shown as $53.14: Exhibit 90 covers distance of 130 miles based on the cost

per gross ton mile; 91 is 119 miles. (Tes. p. 1188.) 92 is 99 miles; 93 is 68 miles; 94 is 52 miles; 95 is based on the cost per loading and empty car mile for a distance of 169 miles; 96 for 152 miles. This, and subsequent exhibits will also be based on the loaded and empty car mile basis; 97 for 119 miles; 98 for 99 miles; 99 for 52 miles.

Mr. Alston: We offer the exhibits 78 through 99 both inclusive.

Mr. Norman: We object, if your Honor please, to the receipt of these exhibits on the ground that they constitute evidence as reasonableness of the Florida rates or else evidence as to whether the Florida rates are compensatory, and the Supreme Court has ruled in this case that neither of those questions is for this Commission.

Exam. Hoy: Objection will be overruled and the exhibits admitted.

(The statements were received in evidence and marked "Respondent's Exhibits 78 to 99 inclusive," Witness Lamb.)

Mr. Cotterill: Exceptions. (Tes. p. 1189.)

(After discussion of a request for continued hearing to permit time for study of the exhibits, the Examiner said:)

Exam. Hoy: Let the record show that Mr. Lamb's cross-examination is deferred to a subsequent hearing in Washington in July.

[fol. 1139] M. L. Fleishel, recalled as a witness, having been previously sworn, testified as follows:

Direct examination.

By Mr. Adair:

I am the same M. L. Fleishel that testified at the former hearing in this case. I am president of the Putnam Lumber Company. We have a manufacturing plant at Shamrock, Florida and one at Bonds Mill, Fla. Shamrock is in Dixie County and Bond's Mill (Tes. p. 1193) is in Volusia County. We have stands of timber in both of those counties, approximately a billion feet of timber we have left that is located principally adjacent to those plants and principally adjacent to the Shamrock plant.

By Mr. Gwathmey:

Q. Did you say two billion feet?

A. Yes, sir. We finished constructing the pine mill at Shamrock in the fall of '27; built it during the year 1927, and the cypress mill the next year. We have a cypress mill likewise at Shamrock. The other mill was finished in '28. The mill at Bond's Mill is a single band mill. When we are running full we used to cut around 800,000 feet a month. (Tes. p. 1194). That was cypress largely. The record shows that we formerly operated a pine mill at Milldale and the cypress mill at Ortega, both near South Jacksonville in this county (meaning Duval). The Putnam Lumber Company owned that cypress mill which we operated at Ortega. The pine mill at Milldale was owned by the Cummer Lumber Company. The arrangement that we had with the Cummer Lumber in respect to the occupancy of that mill was a lease made in the fall of 1918 subject to a renewal in sets of two years at our option. It was indefinite as to how long those two year periods were [fol. 1140] to continue. It was our option to renew it every two years. The first was January 1918, for two years, 1919 and 1920. The lease was signed in 1918 in the fall of 1918 and it was operative from and after the 1st day of January, 1919 for the first two year period and then in successive two (Tes. p. 1195) year periods, and then with our option. The consideration paid to the Cummer Lumber Company for that lease was $60,000 a year. We continued to operate at Milldale through the year 1926 wholly and partly in '27. In the year 1926 we had negotiations with the Denkmann Lumber Company with respect to the sale to them of our pine and cypress timber in Florida. That sale was to include everything except our book accounts, all of our logging equipment, everything; and that was not to include the lease, but tied into those negotiations were concurrent negotiations with the Cummer people for continuation of the use of that property on a somewhat different basis. As to how far these negotiations got, they were practically completed. We spent about six months on them; and all of the contracts were drawn, the language was agreed upon and the physical property had already—the values had been fully agreed upon. The consideration approximately to be paid by the Denkmann Lumber Company to the Cummer (Putnam)

Lumber (Tes. p. 1196) Company for its physical properties was around $12,000,000. It was not definitely determined because we had to actually inventory the lumber, although the basis for the inventory was fixed by the contract for the lumber and timber. The cruise of the timber had been agreed upon. There was nothing left to be determined there except the physical inventory of the lumber and merchandise. Those negotiations were in writing—the [fol. 1141] contract had been drawn, but the contract was not signed. It would have been in another week or ten days. As to whether there was an option agreement between us, or anything of that sort preliminary, I don't recall that there was a written option. Counsel over here was handling it at the time and I really do not recall whether there was. There was a temporary option sub- (Tes. p. 1197) ject to a cruise of the timber which was made and later agreed upon. There was no consideration, however, for the option. We knew those people very intimately and had some stockholders on both sides. The Denkman Lumber Company proposed to manufacture this timber into lumber at Milldale and Ortega in this county. They proposed to transport the logs from the site of the timber to those respective mill sites largely over the Coast Line Railroad hauls. The time (mill) was located on the Coast Line. When they became convinced that the old Cummer scale of log rates was going to be upset they called it off. As to whether there was any other cause for their doing so than this pending litigation with respect to the log rates, they said there was none other.

Mr. Alston: I think that that is not relevant. I doubt very much if any of this is relevant, and certainly what somebody (Tes. p. 1198) else said about it as to their actions.

The Witness (continuing): As to what was our cut, our average during the years 1926, 1925, along there at the plant at Milldale, it was substantially around 35,000,000 a year. Our cut at the Ortega mill was around 30,000,000. We bought the old Bond Lumber Company mill and converted it from a circular mill to a band in 1926 I believe, whenever we found out—whenever we saw this log rate was going to advance. That was done before the Denkmann trade blew up. We had done that before. We

[fol. 1142] bought that timber expecting to haul it to Jacksonville through Ortega. In fact we did haul some 8 or 10 million feet of it to Ortega, and when we decided that we were going to have to move to the woods why we immediately began to cast around. We knew we could not take those logs out of there, so we bought that mill, and converted it into a band mill in order to cut that timber which was down there. Our reason for buying the Bond mill was in order to cut that timber down there that we figured we (Tes. p. 1199) could no longer haul here over any new rates that might be installed.

At the former hearing I testified in substance that we were going to move to the woods irrespective of the outcome of the then pending litigation in this proceeding because we figured the rate was too high and we could not afford to do it. The log rates were too high, the then existing Cummer scale log rate was too high. I have a memorandum of the freights paid to the Atlantic Coast Line Railroad for the transportation (Tes. p. 1200) of logs to our Jacksonville plants during the years 1923 to 1927 inclusive. The amounts paid for the respective years commencing with 1923 and running down through 1927 were: 1923 $243,257.43; 1924 $242,636.24; 1925 $221,908.86; 1926 $200,014.50; 1927 for about half the year $107,324.38. The figure we were carrying our Ortega plant at at the time we moved to the woods, we had to upset and undepreciated value of $252,871.95. When we moved to the woods we moved the mill to the woods, that was all that was movable; Got very little salvage out of it. I should estimate the amount of salvage that we got out of it at say 25 or 30 thousand dollars.

Q. Mr. Fleishel at the former hearing you testified that you were familiar with the various holdings of mer- [fol. 1143] chantable tracts of timber in *in* northern Florida and that you were then quite sure that there were no merchantable tracts to be acquired by shippers—by lumber manufacturers in Florida or (Tes. p. 1201) elsewhere. Can you say now whether there has been any change in the situation in Florida since you last testified upon the subject?

A. Only that two small tracts of timber out west of here on the Seaboard that were discussed at quite some length at the other hearing. One is known as that Eppinger &

Russell tract and another small tract near McClenny on here that has since had small mills put on them, one o which is now in litigation, and shut down and the othe is just about cut out. It was only a small operation, di not have a railroad, hauled the logs by trucks. Those mill were located on the main line of the Seaboard west of her on the railroad. They were located in the timber. I don' know of any tract of timber of merchantable size that is available now for shipment into Georgia, if any Georgia shipper should want to buy it; I don't think there is any at all except in very small isolated patches. The principal species of timber in the lumber business in Florida (Tes. p. 1202) is first pine, then next cypress, and third to a limited extent hardwood. Hardwood probably constituted 5 to 10 per cent of the total business. Hardwood logs are logged I should say in two ways. The larger pine mills and cypress mills sell a small portion of their hardwood logs, the selected logs to the hardwood mills of which I think there are probably three. And then the hardwood mills themselves go out themselves and buy little patches of timber and contract with some logging contractor to get them out and ship them to him. But, in doing that they don't take over 40 per cent of the hardwood stand, [fol. 1144] the other 60 per cent they cannot afford to transport and saw into lumber. They take nothing but the cream of the forest and the balance is left there. That is true in respect to the State as a whole (Tes. p. 1203).

Q. Is the bulk of this hardwood business, Mr. Fleishel, such as it is developed, as an incident to the pine and cypress logging or is the bulk of it developed the other way?

A. Well, I should say the bulk of it—I am not entirely clear as to just how much is being done in a small way. Years ago when the Florida operations consisted almost wholly of the manufacture of pine they paid no attention to the hardwood; it has only been within the last five or six years that hardwood lumber was manufactured in Florida by any mill except in the most incidental sort of way. I know of only three or four mills in Florida out on the Seaboard west of Tallahassee, I don't think there is over three or at the outside four mills who are recognized as hardwood mills. I am pretty well familiar with the pine and cypress mills in Florida and sawmills generally in Florida and eastern Florida (Tes. p. 1204). There is a

[fol. 1145] large mill down at Sherman or Sears. Part of it is in operation now. It cuts that small heavy timber down in the lower peninsula of Florida. The pine timber in the southern portion of Florida is vastly different from the pine timber in the northern portion of Florida. The difference partakes of, well, it is very much smaller, very much thinner on the ground and far more expensive logging, and very much heavier. It is near Fort Myers in the extreme southwestern part of the State. It owns no timber now (Tes. p. 1205). As to the timber that it did own there was a big law suit about it and the original sellers of the timber took it back from them through the courts. That mill was located in the woods. I know something about the mill at Holopaw. That is down on the East coast about 12 or 15 miles below Kissimmee in the southern part of the States. That mill is located in the timber. It would have been cut out in 60 days except for the fact that they took a small portion of the timber there owned by another operating company; that will last them the balance of the year. Sears and Sherman are not the same place. Sherman and Sears are both large mills, one of them, Sherman, has about two years to go and the other has none (Tes. p. 1206). The Sherman mill is in the timber in the extreme southwestern part of the state. Sears is right close to Fort Myers and Sherman right on the banks of Lake Okeechobee near the town of Okeechobee, about 10 miles.

I have examiner Witness Perrin's exhibit No. 61. I think they speak for themselves. According to this record there were 18,602 cars moved over this two year period of which of course a very large percentage of them went to Palatka [fol. 1146] from Hines. That is the Wilson Cypress Company trainload movement (Tes. p. 1207). In addition to that there was another large movement from Hines to Cross City, which involved some 500 cars I think of pine logs owned by the Wilson Cypress Company and sold to our company. As to how it happened that those logs were sold to us, the Wilson Cypress Company don't saw any pine; we have both pine and cypress mills and they don't saw pine and they sold us the logs, only a 10 mile haul anyway. That developed entirely as an incident to their cypress operation. The next largest movement besides the Cummer was possibly a movement of cypress

logs from Carbur to Cross City, which would possibly be logs on a short haul. As to how we account for that, well; we purchase them and they are brought over the Brooks-Scanlon logging road, they were logged out over the Brooks-Scanlon road near Carbur, and then moved down to us on a 28 mile haul. As to how that happened, we bought those logs from a contractor who hauled that timber out on their railroad; and at that time Brooks-Scanlon were not sawing any cypress; so that it was incident to their operations. They are sawing cypress now but they were not then. As to any others that I know about (Tes. p. 1208), well, that constitutes the major portion of the big movements outside of the Brooks-Scanlon, and from the Brooks-Scanlon were logs that moved from Carbur and Perry the first few days after this statement was made, after the Interstate Commerce Commission's intrastate rate became effective. That accounts for a substantial portion of this year's movement. In speaking of the hang-over movement I mean the movement shown here from Perry and Carbur to Eastport. As to the Cummer movement I mean the various movements from other camps [fol. 1147] into Lacoochee. As to the movement here into Perry. That constitutes the biggest movement of all. That is largely from Wilson Cypress Company station at Hines, our movement from Cross City to Perry, Cummer's shipments to Perry from his shipping station (Tes. p. 1209) I don't know just what they were down there, and Brooks-Scanlon movement to Perry, all of which were hardwood logs incident to pine and cypress operations and representing logs that were sold to the Wilson Lumber Company at Perry. Those were developed as incidental to pine and cypress logging, that our four companies were doing on our own account. I saying that was the biggest movement of all I had reference to those logs other than those three large movements that I had previously referred to.

Q. I see. Now Mr. Fleishel you say you are selling some of your hardwood or some hardwood logs to the Wilson Lumber Company, as I understand which developed as incidental to your logging operations of your pine and cypress. Tell me what if any difference if any there has been in the logging operations of the hardwood timber during the time that the highest rate was in effect

intrastate except that rate has—since the old Cummer scale has been restored?

A. Well, you mean the character of logs they are taking now under this rate and those they were taking under the high rate (Tes. p. 1210), they reduced the size of the logs they will now take under the lower rate and, they are taking 3 additional species of timber now that they would not take on the higher rate. We have a contract with the Wilson Lumber Company by which they take all of our hardwood logs of a certain size and specification. That contract after this old rate was put into effect—since this old rate was put back, has been amended to the extent that [fol. 1148] they take logs of a smaller size, and in addition take three species of hardwood that they would not take heretofore when they had a higher rate to pay on the logs. As to what happened to these additional logs during the period of the high rate, we left them in the woods. The percentage of hardwood run of the various varieties that was left in the woods during the period of the high rate was about 50, about half of them. They were taking only the cream of the hardwood under the old rate, under the high rate (Tes. p. 1211). They are not now taking the factory run of the hardwood varieties. I would not say that. Not the run of the woods but they are taking them smaller, and two different species. They do not take the entire 50 per cent that was formerly left in the woods. As to what proportion of that 50 per cent they would take, I should say that we are now probably delivering them somewhere around 15 or 20 per cent more volumne than they would take under the old higher rate. The 15 or 20 per cent more volumne was represented by those logs that were formerly left in the woods. Once the land is cut over it is not practicable to go back and pick up anything that is left. That 15 or 20 per cent additional volumne was just (Tes. p. 1212) left there—that 15 or 20 per cent additional volumne that the Wilson Lumber Company is now taking. It will be there for posterity I think.

It is shown on exhibit 61 that the destination York received some 500 cars of logs on there during this two year period. That mill was the Longleaf Pine Company. It has been abandoned or torn down. The owner built another mill down near Indian Town. The mill at Indian Town is in the timber. Indian Town is down on the Seaboard right near Lake Okeechobee, near the junction of the

[fol. 1149] branch of the Florida East Coast and the Seaboard Florida cross-state line. All I know as to the history of this 4 or 5 hundred cars of logs that went to this mill (Tes. p. 1213) at York is that they claimed it was a little piece of timber they had bought and had to cut up before they moved the mill. I could not say just when they bought it.

Q. Mr. Fleishel, as I recall the gist of your testimony upon the former occasion you testified that in substance that any substantial increase in this Cummer scale was going to in effect destroy the log traffic in Florida. Please examine that exhibit No. 61 showing approximately two years' operations of the Atlantic Coast Line Railroad, of its intrastate logging movements and tell me what you have to say with respect to that, and to your former prophesy upon this subject?

A. Well I think this exhibit right here proves it 100 per cent because this does not—outside of these few cases of Brooks-Scanlon, Cummer and Putnam there is practically no other logs that are in this statement in three or four months in this mill that they moved in the whole state of Florida, if you eliminate those logs.

By Mr. Alston:

Q. Wait a minute. You mentioned what mills, the Wilson Cypress?

A. Wilson Cypress, Brooks-Scanlon, Cummer, and Putnam Lumber Company (Tes. p. 1214). In 1926 we paid the Atlantic Coast Line Railroad for logs transported some two hundred thousand dollars; that would be about 10,000 cars for 1926.

Q. I believe the record here shows that exclusive of these train loads movement during the two year period succeed-
[fol. 1150] ing the introduction of the high rate there was somewhere around 8,000 cars in excess of the train load movements. Then therefore, it would appear that Putnam Lumber Company in 1926 furnished more logging traffic than all these other people omitting Wilson Cypress Company and Cummer and Brooks-Scanlon furnished during the two year period?

A. During the two year period, that is correct, and, in 1926 Brooks-Scanlon was likewise operating.

Q. Mr. Fleishel how long have you been in the lumber business—in the lumber manufacturing business? (Tes. p. 1215.)

—. I have been engaged in the lumber manufacturing business about 35 years, and in it in Jacksonville, in Florida, 18, connected during all that period with the logging of timber and the manufacture of lumber. As to whether logs are a commodity that you can go and buy generally in the market, or whether they are something that must in effect be contracted for when the thing is on the fly, I might answer you that by telling you what the custom is. For anyone that does not own their own supply of logs the custom is to buy a small piece of timber somewhere and arrange with some logging contractor who has special equipment necessary to get out those logs to put them on cars or haul them on trucks for so much per thousand feet. It would be a guess as to what percentage of the lumber business is conducted by people who own and log their own timber as distinguished from those who contract to go and have someone go and fell it and transport it to them (Tes. p. 1216). I should say that 85 per cent of the volume of timber that is sawed in Florida is done so by people who own their own timber. There is substantially none of what you might call "floating logs" to be bought [fol. 1151] in the market in Florida. It certainly is not practical as to pine for a man to operate a saw mill upon any substantial basis of any moderate expense without a constant and conveniently flowing quantity of logs. It has long been a custom with the hardwood mills over in the Mississippi Valley and more or less up in Georgia to locate a mill at a strategic point and buy logs on the market, but of course those are usually small mills and operate intermittently. As to whether there is any market in Florida where such logs can be bought, well some few logs come to Jacksonville in that way but only where arrangements are made to buy them before they are cut, and finance the purchase of the timber or some special arrangement of that kind. As to what kind of a year (Tes. p. 1217) 1929 was in the lumber business, it was the best year we ever had. As to whether it was a very good year in the lumber business and industry generally, we made more money in 1929 than we ever did in any year. It was a pretty good year in the lumber industry generally in Florida and the southeast.

The skid struck the lumber business I should say in the spring of 1930. It has been pretty bad ever since. The Wilson Lumber Company built its mill at Perry I think in '27. They made a contract with us and these other companies, Cummer, and Brooks-Scanlon to haul hardwood logs before they built their mill (Tes. p. 1218). Those contracts were made prior to change in freight rates which became effective in February 1929.

Q. Were those contracts in any way modified after the increased freight rates became effective as to the character and size of timber that the Wilson Lumber Company would take?

[fol. 1152] Exam. Hoy: He has testified that they were.

By Mr. Norman:

Q. He testified that they were modified when the lower rate came back into effect.

The Witness: What is your question now?

Q. Were those contracts in any way modified in view of the increased rate on logs?

Mr. Alston: We object to that as leading.

Q. Well, were they modified at or about the time that the increased rates on logs became effective?

Mr. Alston: When were they modified? That is still leading.

Exam. Hoy: You may answer the question, Mr. Witness.

A. No.

Q. The only modification that was made was after the lower rates came back into effect?

A. That is right.

Q. In your own operations or rather in the light of your operations and your experience, would you say that a mill could successfully operate drawing logs by rail by common (Tes. p. 1219) carrier and paying the interstate commerce scale, the scale prescribed by the Interstate Commerce Commission for application in Florida if it had to draw those logs any great distance?

A. I should say not as to pine and cypress.

Q. Now, how far do you suppose they could? For what distance do you suppose they could pay that scale and compete with mills that are located in their own timber?

A. Well, that is a pretty broad question. It would depend of course upon the character of the timber, the price for which you could buy, and how far you would have to [fol. 1153] haul it to get it to the railroad. Under ordinary conditions they would not be able to operate successfully if they had to haul the logs for as much as say 50 miles under the I. C. C. scale. I should think you could haul them cheaper by truck in this country. They are hauling logs into Jacksonville now by truck for 40, 50 and 60 miles (Tes. p. 1220).

Cross-examination:

These patches of timber that I mentioned awhile ago are largely cypress I should say. These logs that are coming to Jacksonville and those contracts that I mentioned are practically all cypress and hardwood. I would not say no pine because there is only one little mill here that even pretends to saw pine and they have been shut down for quite awhile; and I should say the movement into Jacksonville now is fully 90 or 95 per cent of cypress and hardwood. Yes, sir, I have had a very wide acquaintance with the timber throughout the State of Florida. I think I have a fairly good idea of it. I testified that the mill at Sherman was operating part time, not at Sears. I testified that at Sears they had (Tes. p. 1221) lost their timber. The timber is still there, of course, and it is a large quantity. It is supposed to be about 250,000,000 feet. There is timber surrounding the Sherman mill; about a two year's supply, in feet possibly 60 or 75 million. There is practically no timber at the mills in the neighborhood of Holopaw. As to the timber in the mid part of the state there are; only in lumber circles it is computed that there are only three tracts of timber left in Florida that is not now owned by operating mill companies.

[fol. 1154] Q. But now I am not excluding the timber that is owned by (Tes. p. 1222) operating mill companies in my inquiry about it. I want to know the extent of timber throughout the State, whether it be owner or not owned by operating mills.

A. I see. Well in lumber circles it is generally conceded that there are only three tracts of timber left in Florida

that do not now have saw milling operations working on them. One of them is in Lee county composed of a bunch of cypress; there is a wide difference of opinion about the extent of that, anywhere from 2 to 5 million feet. The next one is known as the Michigan Trust tract that runs from a point east of Orlando and along a line down which is 92,000 acres supposed to cut about 150,000,000 feet. The next one is this tract of timber that you speak of over near Sears. I have spoken only of large tracts that are sufficient to support large mills. I mean to exclude anything that would support a mill of (Tes. p. 1223) common size that would be justified in operating a railroad of their own in connection with their logging. In other words if I can make it a little clearer to you there are no tracts in my opinion that have over 10 or 15 million feet in them anywhere else in that State that are not now being operated by active mills. I will tell you something about the timber in the state which is owned by the operating mills aside from our own, Putnam Lumber Company, or Cummer, Brooks-Scanlon and the Wilson Lumber Company; you mean for me to pick them out and tell you in a general way what life they have behind them—what extent of timber they have. Well, you know the average saw mill man always has a good deal more than he does have and tells about. It is [fol. 1155] generally—taking up the mills on the southwest coast down there the mill at Slater will saw out this year. That is the Dowling Camp Lumber Company. The Ellsberry Camp mill will saw off in the next 60 days, that is at Wynoma. The McGowan-Foshee about two or three years. The Roux Crate Company within the last 30 days have completed their operation at Keysville; and by the way that is another tract of timber that I overlooked when I was reciting the other to you awhile ago. The (Tes. p. 1224) Roux Crate Company have recently contracted with the Babcock Interests to cut their timber on a large acreage in back of Fort Myers and Punta Gorda. Very poor, very thin on the ground, according to the buyer's statement he admits it will run only about 700 feet to the acre. Timber of that nature can not compete on this market at all. That is to be cut at Lake Garfield hauled over under truck trackage arrangement with the Seaboard Air Line. The mill at Patterson, McGinnis at Gulf Hammock have a mixed stand of largely cypress and hardwood, but some pine of

the swamp variety. That is on the Coast Line at Gulf Hammock, probably 4 or 5 years. That is about the story on the west coast. Now on the east coast T. T. Scott at Kenansville has about a balance of about three years—about three months. Mr. Foley prompts me because he sold them that timber, he knows what he has got left. J. M. Griffin Lumber Company at Holopaw, 90 days. Foshee Lumber Company at Melbourne just quit forever. I would say, Mr. Alston, with the exception of the extreme western part of the State, west of Tallahassee, that that is (Tes. [fol. 1156] p. 1225) 95 per cent of it in large tracts or anything approaching a tract that a man could afford to build a saw mill. As to what sized tract will justify building a saw mill on; you understand they can move these little portable mills around where they can cut probably 100,000 feet of lumber. But, to build a saw mill and operate a railroad into the woods why anything less than 20 or 25 million feet of timber, to go back and get it, you can not do it. That is the type I am referring to in a general way. The situation in Florida with respect to the small mill is vastly different from what it is or even has been in Georgia. Because we have got roads down in this State; we have a different class of timber, it is long leaf instead of short leaf and this country has been rid of the small tracts of timber that have been cut into railroad cross ties. It takes a minimum of 13 inch logs to make a cross tie, which means that they have cleaned up practically everything and we never will have the small mill menace down here that they have up in Georgia today; until recent years they never (Tes. p. 1226) take that south Georgia short leaf sap timber into railroad cross ties because it had to be treated. The railroads now have gotten to a point where they, practically outside of these Florida railroads, who buy ties on their own main line do not buy heart ties any longer, they could not get them in volume enough so they now buy the sap tie and treat it, and that practice over a period of years here plus the naval stores operations have eliminated entirely these small tracts of timber that prevail in Georgia and the Carolinas and Alabama, so that we do not have the little mill problem down here that they have up in that country.

[fol. 1157] Q. Now, you testified as I understand it that there are only very small isolated tracts that were available. I

think you have described the kind of tracts that you are talking about?

A. Yes, unless you have got the impression that there were a large number of smaller tracts available, smaller than the size I referred to about the small mills. The best year in our lumber business was 1929. At Shamrock we had established one kind of mill in 1927 and another in 1928. The Bond mill in Volusia county (Tes. p. 1227) was finished I think in 1927. That is my recollection.

Q. Now, when you have moved to the Shamrock plant and the Bond mill, then had your best year in 1929, did you look upon that as a fulfillment of your judgment that the mill ought to be located in the woods or in the timber, rather than on the tide-waters?

A. Not all together no. We had a good lumber market that year, good price and plenty of business, and that lasted throughout the year. We had our best year in the lumber business after the Interstate Commerce Commission's rate went into effect, and after we had moved out to the timber.

Q. Now, you were satisfied as I understood you—you were satisfied as I understood you that the undepreciated plant at Ortega had such an amount—what amount do you use in depreciating of plants such as the one at Ortega?

A. We depreciated that plant at $1.25 or such a thousand of what the mill cut. As to how much did (Tes. p. 1228) the mill cut, I could not tell you but I would imagine—you see we started operating there in '23. I would say 150,000,000 feet, somewhere between 125 and 150 million, I would say, [fol. 1158] just a guess. At $1.25 per thousand that would be $187,500, that is mathematically correct. As to whether I have taken off the $187,000 from the $252,000, I guess either you misunderstood me or I stated it wrong. That was the then set up book value after we had taken the depreciation up to that time at that rate. Maybe the language is wrong. I might say this, for every thousand feet of lumber sawed on that mill we depreciated it at the rate of $1.25 per thousand, and the figure given you here was the depreciated value when we discontinued operations there. As to whether the Eppinger Russell tract wasn't purchased about the early part of 1927 (Tes. p. 1229), it was by one man but not by the people that operated it. Mr. Montague bought that piece of timber. I think it is re-

ferred to in the other hearing as the Montague tract. It is the same piece of timber that they are referring to under those two names. As to the McClenney tract, there was in that about 20,000,000 feet. I think the Eppinger-Russell or Montague tract had about 120 (million). It has been referred to by somebody as 190,000,000 but it never did have it. It is in court right now because it did not cut out on basis of 100. Our 1927 demand for lumber was better in pine proportionately I would say that it was in cypress. That was not on contracts made during that period. We never sell pine lumber except about as we make it (Tes. p. 1230), not because we would not be willing but because the other fellow won't buy. I spoke of the hardwood lumber now moving in the smaller sizes. It had previously moved in the larger sizes. The connection between that and the rates in this. The connection is this. That every [fol. 1159] saw mill man deals as a basic cost the value of his logs at his saw mill. Now, he can afford to pay a certain price for logs that are of a certain size, or he can afford to pay a higher price for logs that are of a larger size. If he has those logs delivered to his mill at a $20.00 cost, he can afford to take a certain size log, but if he can get that same log delivered there for $17.00, he can afford to take a smaller log because his cost is less, therefore he can compete in the market far better than he could than if he had that $3.00 extra cost involved in his freight charge, stumping charge or whatever it was. That is just another way of saying that the freight cost enters into the cost of the lumber (Tes. p. 1231). That is true, also of the freight cost of the log to the Georgia man entering into his cost. We sell our billed stuff, that is our specially cut sizes, largely on the eastern seaboard transported in our own boats, beginning at Philadelphia north up through the Sound and as far East as Portland, Maine. We move it up in boats. We load the boats at Jacksonville. We manufacture lumber at our mill at Shamrock and Bond's Mill; in our Bond's mill that is a cypress operation, that is not handled that way. Our plant at Shamrock; and they are practically on the other side of the peninsula.

Q. And you then ship them by rail and water? (Tes. p. 1232.)

A. That portion of the product goes almost wholly by water out of Jacksonville. We have our own docks here.

We ship it by rail from the mill into Jacksonville, load it on schooners, vessels, and steamers here and ship it east. About 35 per cent of our stock goes export to largely the West Indies in our own vessels, by steamer and through Tampa, the balance of it is sold largely in Florida. If we came in competition with the Georgia people in the northeast part of the country we don't hear of it. I don't [fol. 1160] know it. No. I might say that one reason for that is that we don't market our side-boards in that territory as they no longer have any timber in Georgia of the special billed variety that we put into that eastern seaboard territory.

Q. Well, if they had, they could not market it under this difference in rate?

A. Well that is not a proper market for that.

By Exam. Hoy:

Q. That is practical?

A. It is not proper market for it anyway. If they had any of that stuff, they could sell it to their railroads in that particular territory where they would not have to pay any freight on it. As I testified before, the (Tes. p. 1233) rate on the incoming logs is just as much a factor in reaching the market as the rate on the outgoing lumber. Absolutely. As to whether the price of manufactured lumber is very low at the present time, I have seen it lower. I saw it very much lower in 1913 and 1914. I would not say that prices today, generally speaking of the prices of manufactured lumber are lower than I have known them to be at any time since 1913. I have seen them as low as they are at the present time, I think it was in 1923. It is substantially true that the prices of manufactured lumber generally speaking are on a lower level at the present time than they have been at any time since 1923. As to the demand for lumber at the present time (Tes. p. 1235) it is on a basis of about 40 per cent of what we call the last three year normal period, the past three previous years, yes. That is true all over the United States with respect to soft wood lumber and hardwood lumber. That period would include the year 1929 which was about the best year we had known.

[fol. 1161] Q. So that if you go back prior to the last three years, how long has it been since you knew that the demand for lumber to be less than it is at the present time?

A. It has been quite a period. I could not say. It is just about as bad now as it can be, to have any left at all. As to what portion of the time our mills are running, we are running on about 40 per cent of normal capacity at all places.

Redirect examination.

By Mr. Adair:

We cut down our (Tes. p. 1236) normal operations of our mills about February a year ago. Not to the extent that we are operating now. We dropped about 50 per cent. We cut off our night run about a year ago. In the last 90 days we have reduced about another 15 per cent. Until a year ago we were running our pine mills night and day.

Q. Mr. Fleishel, in the course of Mr. Alston's examination something was said about merchantable tracts of timber in Florida, and you indicated to him 20 to 25 million feet ought to be in the body in order to warrant the establishment of a saw mill operation with the customary logging facilities such as a logging railroad and so on. Did I understand you to say that there were a substantially large number of tracts smaller than that that are available for sale to third parties?

A. No, on the contrary I said I thought there were practically none (Tes. 1237). I gave as one reason for that the manufacture of ties and the destruction of timber by turpentining, which methods have not been through in these other territories.

[fol. 1162] Q. Now, as I recall it, Mr. Fleishel you testified with respect to this exhibit 61 of the Witness Perrin with respect to the movement to Palatka from Hines and to Eastport from—the Brooks-Scanlon movement to Eastport and with respect to the Cummer movement to Lacoochee. It is a fact is it not that the Cummer movement to Lacoochee has ceased to exist over the Atlantic Coast Line Railway?

A. Yes, sir; absolutely. The movement to Eastport has ceased to exist; and the large movement to our mill at Cross City has ceased, the Coast Line haul. We are not using the Atlantic Coast Line Railway at all for the transportation of any substantial quantity of logs now. None at all. I now have no financial interest in this case of any kind. I spoke of the 250 odd thousand dollar figure (Tes. p. 1238)

of our Ortega mill; that was the depreciated value as it stood on our books after the various write-offs had been made. That is what we thought the actual value of it was. That is what it would have been worth if we could have afforded to haul another 250,000,000 feet of logs and saw them there. I do not think it was less than that. No, cost us a good deal more than that to build some other one to take its place exactly like it.

By Mr. Norman:

Q. You were asked if you did not have your best year after the I. C. C. scale became effective; were you paying that scale?

A. [redacted], sir. Some of our competitors were paying it. As to whether that had anything to do perhaps with our having one of our best years, if I have got to compete with the other fellow I like to have a little lower cost than he does. As to whether Georgia mills could come down here and purchase one of these 35,000,000 tracts to which ref- [fol. 1163] erence was made, I don't think I testified as to that (Tes. p. 1239). I think I testified that there were no such 25,000,000 tracts in my opinion. From my experience in the lumber business in Florida, timber business, I have never had any inquiry of any mills in Georgia wanting to buy logs from us. We have sold some logs to the Wilson Lumber Company, not Wilson Cypress Company. I sold hardwood logs to the Wilson Lumber Company and bought pine logs from the Wilson Cypress Company. I have not heard of any Georgia mill making inquiry for purchase of logs in Florida. I don't think there are any available at any ways near the northern part of the State.

Cross-examination.

By Mr. Alston:

Q. By that you mean owned by the larger owners. The timber is on the ground.

A. No, I would not say that, Mr. Alston. Broadly speaking I don't think there is any timber in the northern part of Florida within a reasonable distance of the Georgia line (Tes. p. 1240). I do not mean the Brooks-Scanlon or our company. I am not talking about the larger companies. There is ample timber but it is owned by these large mills.

I mean in addition to that that there are no more tracts of timber that are not owned by these large milling companies that is available. I think I have identified the small tracts but I do not know whether you have sensed my explanation properly. I shall be glad to tell you. What I undertook to say was that in my opinion there was no timber of any consequence either in tracts of 25,000,000, 10,000,000, 20,000,000 or 5,000,000 or 3,000,000, left in the [fol. 1164] northern part of the State anyways near the Georgia line. Such timber of that nature that was up there has been largely cut out.

By Exam. Hoy:

Q. Excepting of course the tracts owned by the large lumber companies?

A. Yes, and there is not a large number of them (Tes. p. 1241). As to these patches that I spoke of, on the river banks years ago when the people logged out this country, they did not undertake to log the hardwood or cypress at all. Nor, did they take the few large scattering pine logs that were in the low wet places and that were expensive to log. With the construction of these hard roads all over this country more or less of those little patches that I referred to Mr. Price have come out on the market and in my opinion they are about 90 per cent cleaned up now. The only reason they have been coming out the last four or five years is because they have continued to push these hard roads close to them where they could haul that stuff out by trucks. Does that answer it?

By Mr. Adair:

Q. Mr. Fleishel, even if the timber owned by the large companies in and around what you may term the Putnam, Brooks-Scanlon district were available for sale, would it be feasible for a Georgia manufacturer to transport that timber from Florida to Georgia upon the scale prescribed by the Interstate Commerce Commission for interstate commerce?

A. No, nor on the old Cummer scale either (Tes. p. 1242). Because, you are taking it directly away from your market into a cheaper market.

Q. And even under the old scale you think—even under the Cummer scale you think there would not be a feasible operation?

[fol. 1165] A. I do not.

By Exam. Hoy:

Q. Just what do you mean by that?

A. Mr. Alston does not understand. I will tell you what I mean by that. When you undertake to ship lumber back up into Georgia; we run on to those fellows who have a lower rate to the Georgia consuming territory, which is a very poor market of course. Lumber is worth more in south Florida a thousand, tide-water here for export than it is in south Georgia. So that if we move those logs into south Georgia on what I would concede to be an arbitrary rate, he would own them at a higher cost than would a man sitting down here in Florida on a shorter rate to tide-water where he could move his lumber out by water. Over a period of the last ten years our rate on lumber from this territory to the eastern seaboard territory, even back on a considerable rail haul from tide-water, has been increased 63 per cent. During that same period you have the rate on lumber from the Pacific Coast to the Atlantic seaboard which has been reduced well over 50 per cent. So that is our competitive condition up here today. As to what makes the market in (Tes. p. 1243) the East largely the fir fellows on the Pacific Coast. In fact, except for some few discriminating buyers who want some strictly high grade long leaf yellow pine, and that situation prevails just the same as it is done with an automobile. Some fellow wants a Cadillac car and he is not interested in a Ford at a lower price, and there are certain people up there who want good long-leaf yellow pine and they will pay $25.00 or $30.00 a thousand more for it than they will fir; but, when it comes to framing, grades of lumber and that type of lumber, that is being produced out of the uncut portion of south Georgia [fol. 1166] they have got to compete with that Pacific Coast stuff on a price basis alone, and only on our good long-leaf timber in the plank, can we compete with them in any respect, not on sideboards as the products of the small knotty top logs. (Tes. p. 1244.)

[fol. 1167] June 12, 1931.

J. S. FOLEY, recalled as a witness, having been previously sworn, testified as follows:

Direct examination:

I am the same J. S. Foley who testified at the former hearing in this case. I am president of the Brooks-Scanlon Corporation. When I testified before Mr. M. J. Scanlon was president. He died last October and I took his place. Our manufacturing plant is now located at Foley, Florida, about 5½ miles southwest of Perry, Taylor County. (Tes. p. 1245) We started construction of that plant there in February 1929. I testified at the former hearing that we had quite a large plant and town site at Eastport near the city of Jacksonville. I will now tell what our investment was in that plant and mill site at Eastport in February, 1929. When we started to move our investment it was $2,340,000 in equipment and plant site at Eastport. As to what has become of that plant and town site, we dismantled the mills, saw mill and planing mill and moved the machinery and buildings to the new site at Foley; moved some of the houses of the town site. There remains some houses and the gantry shed, gantry crane and docks. As to what caused us to move our plant from Eastport to the timber, the advance in the log rates. The new interstate rate. Our records show it cost us about $3,200,000 odd dollars to make that move. The actual cash outlay cost of moving the plant was 1497 thousand dollars. We lost our Eastport real [fol. 1168] estate. I am leaving off the dollars and cents as I have it. Do you want it in detail—one and one quarter years' interest on (Tes. p. 1246) our timber debt, investment $450,000.00; taxes paid on the property while we were idle, moving, $144,000.00; overhead while we had no production or shipments $181,000.00; loss on the Eastport real estate, unable to move it, $347,000.00; loss of renting $625,000.00 makes a total of $3,244,000.00. We shut down somewheres around the 15th or 16th of February, 1929. We started operating in a small way in the early part of December, 1929 but we had no stock to market that was dry so that we were well into 1930 before we were in the market to sell our lumber. Prior to that time the Brooks-Scanlon Corporation, its predecessor the Carpenter-O'Brien Company had been moving logs by the Atlantic Coast Line Rail-

road from the site of its timber exclusively. That was its sole supply under its contract. That timber was located in several counties, Taylor, Dixie, Lafayette, Wakulla and Jefferson counties. Had a little in Alachua. It lies substantially continuous (Tes. p. 1247) we would call "well-blocked". We have other tracts of timber that we are marketing other than in that vicinity. We have timber in South Florida. We are not operating it. We have sold it. It was not feasible to market that south Florida timber at a north Florida mill. As to whether the distance as shown by the former testimony from our shipping points in that western peninsula timber, Lafayette and the surrounding counties is about 166 miles, I guess that is substantially right; we shipped from Carbur and Perry. I think Carbur is considered 160 miles, approximately that. The capacity of our mill at Eastport that we cut was 100,000,000 ft. annually, the last four years that we were there. As to the [fol. 1169] number of cars and amount of freight we paid the Atlantic Coast Line Railroad Company for the transportation (Tes. p. 1248) of logs from 1915 down and through the year 1929,

Year	Cars	Freight
1915	4,891	$62,920.00
1916	9,906	147,805.92
1917	9,352	140,555.56
1918	8,341	140,555.56
1919	7,900	131,423.04
1920	8,810	168,253.87
1921	7,580	173,801.53
1922	12,013	254,900.50
1923	12,613	254,481.24
1924	15,088	315,470.73
1925	16,917	331,549.71
1926	15,652	334,048.47
1927	15,889	330,608.29
1928	17,053	353,136.00
1929	2,140	50,954.66

The total cars 163,245; the total money is $3,182,952.26.

Q. Mr. Foley, well, how do you account for the small figures in 1929?

A. Well, we stopped operating at Eastport shortly after the 9th of February, 1929. As to whether as a matter of

fact, we stopped shipping logs just as soon as we could complete shipment of those we had cut in (Tes. p. 1249) the woods when the order became effective, we tried to stop before the new rate. We had a few trains after the new [fol. 1170] rate was effective.

Q. You testified on your former hearing Mr. Foley that you could not continue to operate at Eastport if the so-called Cummer scale was substantially increased and in the event it was increased that you would dismantle your mill and town site and move to the woods with your mill. Did you find that it was necessary for you to do that?

A. Yes, sir. There were residing in Eastport at the time we abandoned operations there, we always figured there was pretty close to 5,000 people. As to what remains of that town now, the docks, gantry shed, water tower and a few of the houses. We own the land on which the mill and town site was. The population of Eastport now, I think there are about 12 houses rented perhaps 25 or 30 people. (Tes. p. 1250.)

My prophecy as to what would happen to Eastport has been fulfilled. I think it is about the way we figured it out. The amount that this thing has cost has exceeded our engineer's estimate the best we could get at it, exceeded something over $240,000. Our new mill is located in the timber so that it is pretty well centralized in our holdings. We do not use the Atlantic Coast Line now for the transportation of logs from our timber to our mill. We serve our mill with our own logging road and some move over the L. O. P. & G. We have a trackage arrangement with the L. O. P. & G., the Live Oak, Perry & Gulf. Exhibit No. 61 filed by Mr. Perrin shows 224 cars of logs having been shipped to Eastport (Tes. 1251) since February 9, 1929 to January 1, 1930. That was a clean up of logs that we had that moved after the new Interstate Commerce Com- [fol. 1171] mission rate came in. They moved immediately following that, we cleaned up just as soon as we could. There is no other industry going on now at Eastport that would permit the shipment of logs there; there has not been since we moved. Nothing remains there but the bare land and the remaining improvements to which I have testified. As to how much timber we have left in our tracts in the western part of the peninsula at the time we moved—that we closed down our Eastport mill—we planned the

output to take care of a billion feet. That is about what we had left. We started a capacity of 80,000,000 a year and expect to run 12 years. The capacity of our Eastport mill (Tes. p. 1252) was 100,000,000. Our Eastport mill was somewhat larger capacity than the new mill constructed in the woods. We had enlarged that mill at Eastport within the 5 year period preceding the time that we moved. We enlarged the plant in the latter part of 1923 and the early part of 1924. We expected to complete all of our cutting there as everything was of a very permanent nature, steel and concrete, modern town site, and the mill had been kept up until the time that we abandoned it. It was modern in all respects.

Cross-examination.

By Mr. Price:

As to what it costs per car to handle our own logs by tram, (Tes. p. 1253) for delivering to the mill I don't believe I could answer that Mr. Price because we figure everything up to the mill on a unit of a 1,000 feet and I have not got that detail with me. My recollection is that it is less than 50 cents a thousand, and we run between 5,500 and 6,000 feet to a car. We handled our logs into Eastport for a distance of approximately 160 miles, and our rate was $18.50 a car on 50,000 pound car, I think that the last rate as I recall it, I am not certain, I think it [fol. 1172] was $17 for 50,000 pounds, excess in proportion, but I am not positive of that. The average of late years ran to the total weight on the car something over $20 per car if the cars are more than 50,000 pounds. About 40 per cent of our lumber comes here into port and goes by water to eastern seaboard points and some goes export. The balance goes into Georgia, North and South Carolina, Virginia and all of the inland eastern seaboard points (Tes. p. 1254). We ship the lumber into Jacksonville and load on to our own boats with the exception of a few small parcel lots that go by the Clyde Line, that is not on the through billing however. The rate we pay into Jacksonville from our mill on lumber, I think, is 9.7 cents per 100. As to how the rate is stated, I think all of the rates are published so much for 24,000 pounds, but we understand it more readily in cents per 100 pounds. The rate is pub-

lished as a rate per car of a certain weight, with the excess in proportion (Tes. p. 1255). When I spoke of 9.7 cents it is so fixed in my mind that 9.7, I think it is $24, but I don't know. I would have to look up the tariffs. It is quoted however on a minimum weight for so much. That applies on 40 per cent of our business, intrastate on lumber and the other 60 per cent is covered by through billing from the mill when it moves from origin to destination all-rail.

By Mr. Alston:

Q. Mr. Foley, you stated that your mills were moved to Foley, Fla. What county is that in?

A. Taylor County. We moved some of our help or employes who were at Eastport over to this place. We did not move the larger part of them. I would say we lost a good part of them. As to what percentage we moved there (Tes. p. 1256) I would say we got about 40 per cent [fol. 1173] of the original employes, would be my guess. As to whether, under the change in method of doing business, we no longer had need for a good many of these at Eastport, our method of doing business was almost similar except the loading of the boats at our docks at Eastport. Identically the same process. We have not increased our holdings of standing timber in north Florida since the last hearing. The holdings are substantially the same except as we have cut them. As to an estimate of our stumpage or number of feet that we now own, as of today, we have cut substantially 100,000,000 from our holdings when we moved our plant to Taylor County. I testified that our holdings were very near a billion feet of standing timber (Tes. p. 1257). As of today that is not true because we have cut and removed over 100,000,000. There has been some increase in the size of the growing timber, but the increase is offset by the damage from fire and dead timber so that we do not consider in Florida timber that there is any increase except in the very small young growth. The timber in south Florida that we had was in Orange and Osceola counties, down on the east coast, near Kenansville, around the Okeechobee branch of the East Coast Railway. I imagine that is 200 some odd miles from Jacksonville. The quantity of that timber was about 95 or 100,000,000 there (Tes. p. 1258). We sold it all first to T. T. Scott at

Kenansville; and he afterwards made a trade with the Foshee Manufacturing Co. at Melbourne, and they took the north township which joins some of their timber, which gave them I should judge at least one third of the timber. As to who got the balance, that was among those two buyers. As to whether that timber is still standing, no; Scott has been cutting on it quite some time and will be through this year.

[fol. 1174] Q. In your previous testimony there was a statement made of shipments of cars, and so forth, from 1915 through 1926, corresponding to the statement which you have given here except that you there stated the number of feet and you stated the average freight per car and the average freight per thousand feet, and the average feet per car? I wish to show you that list there and will you please say whether or not the average of the per car through the years—through the other years which you have mentioned in today's testimony corresponds with the averages there set out—I am referring to your exhibit No. 42?

A. Well, I was supposed to have a copy of it. This is it. Yes, sir; that corresponds (Tes. p. 1259).

Q. In other words the shippings up to 1929 to the date when you stopped corresponded with the shipments up through 1926 as to the average of the per car?

A. Well, there is a slight difference, Mr. Alston. The average of it for 1927 was in feet 5,809; 1928, 5,569; 1929 was 5,696; which is higher than the general average from 1913 to 1926, inclusive, which was 5,467.

Q. Now, in your statement you had an item of cost of moving $1,497,000.00 as I understood it? What was that?

A. Well, that is the actual cash outlay. $1,497,000.00 leaving the odd dollars off, the actual amount of money it cost us to move exclusive of the other items that were enumerated.

Q. Well, can you give us the general headings of that. You gave only one lump sum—that is a very large amount of money to be just one lump sum? Just the general headings under which you itemize it?

[fol. 1175] A. Well, that is the plant, the machinery, the money for dismantling (Tes. p. 1260), the freight, the unloading, the re-erecting, and the replacements of broken parts. And the value of the machinery that we moved from Eastport. We still have the real estate of course at Eastport.

Q. And, I asked you a few minutes ago about the increase of stumpage by the passing of the years and you have got one and one-quarter year's interest $450,000.00 on that stumpage. Do you not think that that is to some extent offset by the growth of the timber, Mr. Foley?

A. No, sir; I do not. The damage from fire and lightning and other destructive forces offset any growth we get.

Q. Mr. Foley, can you now give us some statement as to the volume of timber standing in Florida, fairly close to the Atlantic Coast Line Railroad Company. As to the extent of it?

A. No, sir; I would not undertake that. I would just have to give you my opinion, I don't know. To give an opinion as to the total quantity I will have to do some calculating there. While it is just a pure guess, including ourselves, Putnam and some of your south Florida timber which we do not think can be manufactured unless there is a very favorable (Tes. p. 1261) lumber market, is about two and one-half billion feet. That includes only the timber owned by the people whom I have mentioned. Timber, it is some Babcock and Coast Line timber. These people do not own all of the timber in Florida. My answer two and one-half billion is what I know is on the Coast Line.

By Exam. Hoy:

Q. Your subsequent answer meant that is not all of the timber in Florida adjacent to the Coast Line?

A. No, he asked the question all owned in Florida and I said no.

[fol. 1176] By Mr. Alston:

Q. Now then I ask you do the companies mentioned by you own all the timber in Florida adjacent to the Coast Line?

A. Yes, sir; the two and one-half billion feet that I mentioned. All of that two and one-half billion that is adjacent to the Coast Line, yes. I could not say if that is all of the timber in Florida adjacent (Tes. p. 262) to the Coast Line. We moved our plant and are now logging over our own rails. We have got 120 miles of logging railroad exclusive of the Live Oak, Perry & Gulf. It is in three loca-

tions; three separate locations with one main and two branches, two purely logging. That ramifies our timber holdings which I have described. We will have to make further extensions as time goes on on those lines. I concur in the opinions which have been expressed in this record heretofore and this hearing to the effect that it was wise to have the mills located in the timber, economically wise. Our experience from our move would have demonstrated that to (Tes. p. 1263) us if we did not have to absorb the loss that we sustained at Eastport. If the mill was originally built in the timber, the owners of the property would have been infinitely better off. They are now better off, and in the future, that the mill is in the timber. I put the Eastport value at $2,340,000. That is the original cost, no depreciation. That plant had been in existence, started to run in 1915 I imagine so, built in 1914. We did not build it, we purchased later. We bought the controlling stock from Carpenter-O'Brian, changed the corporate name. They built it (Tes. p. 1264). They started in 1915 to operate, and operated until the early part of 1929—for 15 years. As to what depreciation we take on our plants in our tax books, our basis of depreciation is a salvage of 5 [fol. 1177] per cent over the original cost and the rest is prorated either by years of the operation or by thousand feet, so that you can check it back either way. We set up the salvage at 5 per cent and the balance is depreciated either by the thousand or the year at whatever your investment is. No percentage, it is based on the feet that you cut. That is, when your timber is gone your investment is only worth 5 per cent, and you will do well to get that out of it. Depreciation is based on annual cut, and the amount is based on your total timber that you own when you build your plant. At the Eastport plant my recollection of the depreciation in per thousand feet was somewhere around $1.40 per thousand (Tes. p. 1265).

As to what circumstances that particularly influenced our company in originally locating its mill at Eastport instead of in the woods, Mr. Gwathmey, I could not answer that from my opinion because we did not build the mill; the mill was built when we bought it, but I assume it was the log rate and at that time I think there were water competitive rates which gave a distinct advantage to a tide-water mill which was later balanced or equalized so

that is my opinion as to why they built there. It is quite possible at that time that the advantage of the location on tide-water was one of the things that entered into the location of the plant. Our company was shipping there to Eastport something like 100,000,000 feet per year. As to what approximately was the proportion of that total moved out of Eastport by water, either for export or in coastwise movement, our annual movement ran between 35 and 37 per cent out of Eastport of our production by water (Tes. p. 1266). The balance moved out by rail. [fol. 1178] Foley is about five and a half miles from Perry. The same stockholders of our company own the Live Oak, Perry & Gulf. They purchased it from the Atlantic Coast Line. The other point of location between the Live Oak, Perry & Gulf and the Coast Line besides Perry is Live Oak. Shipments from our mill at Foley ordinarily all originate on the Live Oak, Perry & Gulf, and I would say the bulk of it moved, turned over to the Coast Line and they move it largely through Live Oak. I think that is the connecting point (Tes. p. 1267). As to the approximate proportion of our output of the mill at Foley that now moves to Jacksonville for export or movement beyond by water, we are moving from there about 40 per cent to Jacksonville of our cut. That 40 per cent moves from Live Oak to Jacksonville over the Atlantic Coast Line Railroad, that type. The balance of our output we ship into Florida, different points, Georgia, North and South Carolina, Virginia, Eastern Tennessee, all up through the New England states.

Q. And, that outbound movement is over the Coast Line principally is it not?

A. No, not all together. Of course, the buyer's instructions as to routing is followed, it does not all go Coast Line.

Q. It is all billed out originally over the Coast Line is it not?

A. No, sir; we are not on the Coast Line rails.

Q. Is it not a fact Mr. Foley that relatively a small proportion of your total output of the mill at Foley goes over the lines other than the Coast Line?

A. Well, depends upon what you call a small amount (Tes. p. 1268).

Q. Suppose you indicate for us, will you?

A. Well, I don't think that is hardly a fair question but I will answer it.

Q. I beg your pardon, sir?

[fol. 1179] A. I don't think it is hardly a fair question.

Q. I would not have you for a moment answer a question which you do not think is entirely fair. I was merely trying to get at some——

A. (Interrupting:) It is about 24 or 5 per cent.

Q. Please understand I am not requiring you to answer the question, and if it should not go on the record I shall be glad to withdraw it. Mr. Foley, could you give an estimate of the freight revenues that accrued to the Coast Line on the outbound movement of your manufactured lumber as compared with revenues which formerly accrued to the Coast Line on the inbound movement of logs to [fol. 1180] your mill at Eastport?

A. Not without making some calculations, I know the outbound lumber is considerably less. I know that the revenue accruing to the Coast Line on the outbound movement of lumber is less than the revenue formerly accruing under the log rate. I mean by that the gross revenue of course (Tes. p. 1269).

Q. How do you figure that: Are you undertaking to include in that your movement from Foley to Jacksonville, and the movement out of Foley either via the Coast Line in connection with other railroads?

A. Well, I just made a mental calculation, I would not want to say that I am right about it unless I checked it up. I have always felt that the revenue from the lumber was much less than the revenue from the logs in total money.

Q. But, you have never really made any calculations to determine that, have you?

A. No, sir.

As to whether we find any competition from the Georgia mills when we sell in the northeastern part of the country, north of Washington, up in Portland, Maine, and along the coast, no sir, the competition we feel of the Georgia mills is in Georgia alone, and that is the worst competition we have to meet.

Redirect examination:

We sell some logs to the Wilson Lumber Company at Foley (Tes. p. 1270). We have a contract for the sale of

all hardwood timber. As to how long that mill has been located at Perry, I think they were operating in 1928, I am pretty sure. In cutting our pine and cypress we cut some hardwood that may be growing in the pine and cypress. [fol. 1181] The hardwood that we own is badly scattered over a large area of ground, and in our contract we sold them sizes, diameter that they required at and as we come to it. It would be commercially not feasible and unprofitable just to go in there and cut that hardwood alone. It would be impossible. We operated a logging road on our timber properties when our mill was located at Eastport. We had a logging road connecting with the Coast Line. There is nothing new about the operation of that logging road. That road was not built because of the change in the site of the mill (Tes. p. 1271). It is the same identical logging road only we extended it to our mill at Foley, that is all the difference, instead of to the Coast Line. As to what other road our road, the Live Oak, Perry & Gulf connects with; at Perry we connect with the South Georgia and the Coast Line. At Live Oak we connect with the Seaboard and Coast Line. The South Georgia is not part of any system, I don't think so; the Oglesbys I know are officers of it and I imagine own it; I don't know. We have no financial interest in the result of this litigation as to the rates for the future, none whatever. We are not shipping any logs over the Coast Line now; of course, I cannot say what might happen in the future. I have no expectation that we will. I think I stated that the probable life of our operation out there was about 10 years (Tes. p. 1272).

By Mr. Adair:

Q. You said something about this timber down in Kenansville that was being manufactured into lumber, this timber that your company at one time owned. Is that mill in which that timber is being manufactured into lumber situated in or near the woods?

[fol. 1182] A. That at Kenansville is pretty nearly on the edge of the timber, and it is pretty nearly the same condition at Melbourne.

Q. Now, have you testified with respect to there being approximately as you estimate two and a half billion feet of the remaining timber on or adjacent to the Coast Line

Railroad Company—does that include all of the tracts of which you can now think which are adjacent to the Coast Line Railroad?

A. Yes, that is the only calculation I can make it from. There may be more, but I don't know. I merely answer the question as to my information the best I know how. That comprises wholly if not entirely the Brooks-Scanlon, Putnam and Gulf Hammock, and some timber in South Florida, about which Mr. Floishel testified yesterday (Tes. p. 1273). Known as the Babcock and Coast Line timber. As to how much is in the so-called Coast line tract, I don't like to say because I don't think there is anything like—it is a substantial amount, yes. It is down in the Lee county district in the far southern portion of the State. We had to lay that logging road anyhow. The logging road was there when we built and when we started, no difference. When we got through with the Carbur district we started the logs up on our own railroad to the mills to get them to the Coast Line.

Q. Mr. Alston asked you some question with respect to the loss in value of this Eastport plant when you salvaged it and moved a part of the machinery to your new location in the woods. Mr. Foley, please tell me whether or not in arriving (Tes. p. 1274) at the loss which you say you have here sustained, you included the loss at the Eastport plant and loss at the town site, your actual loss, or whether it was something other than your actual loss that [fol. 1183] you have included in those figures?

A. Well, the loss of earnings for 1929——

Q. I am talking about physical property now.

Mr. Alston: He gave the factors.

Mr. Adair: I know he did, I think you also confused the figures. I am trying to get that straight.

Q. In the first figure, the $1,497,000.00—did you actually lose that amount of money in the wrecking of that plant and the construction of a new plant?

A. Yes, sir.

Q. Is that your loss after taking off the depreciation which you were entitled to take off on your investment at Eastport during the period of time that the plant was in existence at Eastport?

A. No, this is the loss from the original cost.

That mill was maintained at Eastport up until the time we moved. That is what it cost us to wreck the old mill and construct a new mill, and includes some value of the machinery that we set up in the new plant (Tes. p. 1275). There is no duplication in those figures. We consider that we are actually out-of-pocket to that extent, actual cash outlay. As to whether we encounter any competition with the Georgia mills in the eastern markets, we have not heard of them in competition up there but we do in Georgia.

Q. In Georgia, well, as a matter of fact in the Georgia market haven't they a very great advantage from the standpoint of rates on lumber?

A. Well, the worst competition we have to meet is the truck delivery to the yard by the small mill, which takes [fol. 1184] the general building lumber such as sheathing and common framing and we just cannot sell any of that because they deliver by truck from the little mill to the retail yard at prices (Tes. p. 1276) ranging from $8.00 to $11.00, and we cannot log, cut it for that, let alone the stumpage and the cost of the lumber, even with the present conditions with our mill located in the timber.

Q. Mr. Foley, you said that the natural place under the present operating conditions for the mill is in the timber and that you thought that the mill was better off there—a mill was better off in the timber now than located at tidewater with a haul of its logs by carrier. Will you tell me please whether or not you would have moved this mill to the woods and taken this large loss except for this attempted change in the so-called Cummer scale rates?

A. We would not. As to whether we would consider that our loss in the moving was out of proportion to the benefits to be obtained by moving to the woods, for instance 1929 was a very satisfactory year in the lumber business; we lost the whole year. We would consider that the loss was greater than any possible gain we had to come from moving.

By Mr. Norman:

Q. Mr. Alston asked you, or rather in (Tes. p. 1277) response to questions by Mr. Alston you have stated that you estimated the timber along the Atlantic Coast Line in Florida at two and a half billion feet. What part is any of that timber would move under logging rates such as prescribed

by the Interstate Commerce Commission in its previous order?

A. Oh, I cannot answer that because the bulk of it is owned by people who are now operating that I calculated on. They would not move any of it, because there would [fol. 1185] not be any necessity to move it. So that as far as this two and a half billion feet of timber is concerned from the standpoint of log traffic it does not mean anything to the Atlantic Coast Line Railroad, not in log traffic as I undertsand it.

Recross-examination:

I heard Mr. Fleishel's testimony on yesterday as to the present condition of the lumber industry from the standpoint of prices as well as demand. My experience and observations are substantially the same as his and I would concur in what he said, practically so (Tes. p. 1278).

Redirect examination:

The original investment in the mill plant at Eastport in round numbers was $1,359,000. The total investment in the plant at the time that we dismantled was $2,340,000. I think it was worth the money, if we could saw the lumber there outside of that it is not worth anything, it is a liability. I considered it was worth that as a going mill with the substantial amount of timber that we had back of it, with the Cummer scale in effect. The mill was not worth anything if there was not any timber back of it (Tes. p. 1279).

[fol. 1186] C. R. MacPherson, called as a witness, being duly sworn, testified as follows:

Direct examination:

My name is C. R. MacPherson, president and general manager of the Wilson Cypress Lumber Company residing at Palatka, Fla. On my father's death in December, 1926, I was made president of the Wilson Cypress Company; prior to that time I was vice-president of it. Mr. F. H. Wilson, who testified at the former hearing is now dead. He died in August, 1929. The manufacturing plant of the Wilson Cypress Company is located at Palatka. The plant

stands on our books, after deducting depreciation, basic cost at about $800,000. We manufacture cypress lumber there, (Tes. p. 1280) and no other kind. We employ approximately 275 men. As to where our timber is located we have about 50,000,000 feet left over in the western peninsula and we have about 300,000,000 feet on the St. Johns river tributary to Palatka. Palatka is on the St. Johns River. The 300,000,000 feet will be rafted, towed to the mill on the St. Johns river, with just our own railroad running back from the river into the various tracts, with no common carrier transportation. We are now conducting logging operations in Dixie county, Lafayette county, that is in the western peninsula, the 50,000,000 I referred to before. We are not conducting logging operations elsewhere than there (Tes. p. 1281). We have been logging that tract in the western peninsula since 1924. As to how we have been transporting our logs from the timber to our mill at Palatka, we have our own railroad in the timber and we connect with the Atlantic Coast Line at Hines, Florida and haul 119 miles to Palatka. That movement from Hines has been since 1926, and from 1924 to 1926 we hauled from [fol. 1187] Old Town, which was a distance of 99 miles to Palatka. We are continuing the haul from Hines at the present time.

Q. Mr. MacPherson if you have a memorandum before you of the number of cars, the amount of freight paid from 1926 to 1930, inclusive, please read from that memorandum the total number of cars by years and the amount of freights paid by years to the Atlantic Coast Line Railroad Company for the transportation of logs from your western peninsula tract of timber to your mill at Palatka?

A. In 1926 we had 4,233 cars with $71,742.75 paid in freight. In 1927 we had 4,754 cars with $93,219.37 freight. In 1928 we had 5,531 cars with $109,138.07 freight. In 1929 we had 2,140 cars with $83,098.99 freight. In 1930 we had 5,142 cars with $205,096.20 freight. A total of 21,800 cars and a total of $562,295.38 freight (Tes. p. 1282). During the first five months of this year we have shipped 1,916 cars and paid $50,366.17 in freight. That is through May 31st. Now, I have not the figures here for the movement from Old Town in those two years preceding but, there is a movement there which will increase the total figures. Old Town is a few miles south of Hines on the Atlantic Coast Line

Railroad, I should judge just from recollection probably six to eight thousand cars moved from Old Town, during that period—two years, 1924, 1925 and part of 1926.

By Mr. Adair:

Q. Mr. MacPherson, Mr. Wilson in January 1927 at a former hearing in this case testified that it would not be possible for you to continue to operate your plant at Palatka and continue to move logs from your timber in Dixie, Lafayette and Taylor counties to Palatka under any materially increased freight rates. I would be glad if you [fol. 1188] would here state what the circumstances of your operations have been since the order of the Interstate Commerce Commission increasing the state rate became effective on February 8, 1929? What you did and the conclusions you reached?

A. Well at about that time or at that time we had about 90,000,000 feet left over there 90 to 100 million feet. The situation was quite different at the time Mr. Wilson testified because we had been cutting and hauling under the old (Tes. p. 1283) Cummer scale; in the meantime considerable time elapsed and at the same time our mill burned at Palatka. It burned January, 1929, the 23rd I think it was; the whole plant was not destroyed; the saw mill and the power plant only, the boiler room was not destroyed, the planing mill was not destroyed, the machine shop, none of the lumber, none of our docks, none of our yards, none of our outside equipment like tugs, and lighters and that sort. Well, as I say we had 90,000,000 feet of timber left in the western peninsula, we had 300,000,000 feet on the river, we had a good portion of our plant intact on the river and we could not—were not in a position to go to the woods and rebuild in the woods like these other gentlemen have done, because the bulk of our mill was tributary of the bulk of our timber, and we would have had to build two mills instead of moving one, and we did not feel that we had sufficient timber, with 90,000,000 feet to build a modern saw mill plant such as we would have had to have had to kiln dry and dress our lumber particularly to compete in the markets with the other mills. Another factor entering into it was that our (Tes. p. 1284) timber in West Florida is not owned in fee but, is owned through timber leases. If that had not been the case we might have put a small mill over there where we could

[fol. 1189] cut only rough lumber. And in that connection I would say that about 60 to 65 per cent of our lumber shipments are dressed lumber, which means that the lumber has to be kiln dried and go through a planing mill, which means that much more capital investment to handle it. Most cypress timber that is sold is not sold until after a year after it is manufactured. Consequently it is necessary to carry very large stocks by anyone that conducts large cypress operations, because of our timber leases we could not put in a small mill to cut merely rough lumber, because of the length of our leases and the small amount of our rough shipments so that it was merely a question of trying to find some way to get that timber to Palatka cheaper; and I saw Mr. McDavis, and he would not do anything for us, and I went up and saw Mr. Oliver, and Mr. Capps and Mr. Foley. Mr. Oliver of the Southern Railroad and Mr. Capps of the Seaboard, and we made trackage arrangements, the net cost of which would have been about midway between the Cummer scale (Tes. p. 1285) and the interstate rate. That traffic would have moved from Mayo, Florida, on the Live Oak, Perry & Gulf to Live Oak, where the Seaboard would take them, and they would go to Lake City and then the Georgia Southern would take them into Palatka. I think the distance as I recall it was in excess of 150 miles. It was about 30 miles longer than the Atlantic Coast Line part of the haul from Hines to Palatka. The trackage agreement, they agreed to it and I think they still agree to it. I get letters from them once in a while wanting to know if we want to enter into such an agreement. The figures have been agreed upon so for as the railroad was concerned. We did not enter into the agreement because of the condition of the Live Oak, Perry & Gulf Railroad at that time. I understand it has been improved since. They could not get heavy locomotives over there and we would have had to relay the trains (rails?) up to Live Oak. (Tes. p. 1286) We [fol. 1190] were afraid because of the condition of the road that the loads might shift on a poor road and cars be thrown out at Live Oak for inspection, and the net result might be that not getting *to* the cars to the mill we would have to shut down for part time on account of the condition of the railroad. I understand, Mr. Foley tells me that those conditions have been improved, and done considerable work on the road, it is in better shape. As to what other factor

entered into the conclusion that we finally reached, we thought we had a pretty good case, this case, all we knew that there was not any movement to Georgia and thought somebody some day would find out that there was not. We thought eventually that we would win this case, and took a chance on winning it, the suits in the court and get the Cummer scale back and get a restitution, the way things are working now. Under those circumstances we concluded that we would for the present at least continue to move the logs from Hines to Palatka by the Atlantic Coast Line Railroad Company.

Q. Mr. MacPherson have you reached any conclusion as to what course you will pursue with respect to your West Florida—(Tes. p. 1287) to the transportation and manufacture of your West Florida timber in the event that the Cummer scale, which is now being applied in Florida, should again be increased by the order—substantially increased by order of the Interstate Commerce Commission before you have completed the transportation of your western peninsula timber to Palatka.

A. Why no, we have not gone into that question with any fixed policy as to what we will do; I cannot answer that Mr. Adair. I know there are three or four things that we might do. Get lawyers to continue to litigate, we could go after this trackage business again and see if that is feasible, [fol. 1191] now that the Live Oak is in better shape physically, and we could probably put a small mill in our timber now, a mill to saw rough lumber, and we could handle our rough lumber shipments from the woods, because the quantity of our timber is now so much less, and the remaining timber we have of course, is the timber we have long leases on, which of course was not the fact at the time our mill burned. We had some short lease timber at that time too. I mean by rough lumber mill, just a saw mill and a yard to cut the logs into rough lumber (Tes. p. 1288). Just saw the logs into lumber without any planing mill work or any dry kilns or anything of that sort.

Q. And then transport the green lumber to Palatka?

A. Well now, I should not think so. I think what we would do would be to carry that lumber there until it is dry and then ship it out on our rough lumber orders. Well, I imagine we could probably negotiate with some of the people who have moved to the woods, that are right in that

territory, Brooks-Scanlon, Burt-Schwartz, Putnam Lumber Company are all right there in a stone's throw of us, they have their logging railroad right near us and we could probably make some deal with them to cut our lumber for us.

Q. Mr. MacPherson if that unhandy situation should arise would it be possible for you to transport those remaining logs on the western portion of the peninsula to your plant at Palatka and to compete on any sort of reasonable basis with other manufacturers of cypress lumber?

A. No we would just have to take a loss under present conditions. The increased rates would be too high. Any- [fol. 1192] thing substantially over the Cummer scale would be substantially too high.

Q. Mr. Wilson testified in the former hearing with respect to the nature and character of the movement of logs from (Tes. p. 1289) Hines to Palatka that it was in regular train load movements of approximately three trains a week, and that the empty cars going back the next day were likewise in train loads. Has there been any substantial change in the character of that movement since the time that Mr. Wilson testified?

A. No, there has been no substantial change but, there has been a change in two respects. Mr. Langley stated yesterday that the cars were weighed at Palatka. For over a year now they have been handled on an estimated weight basis, and both the Coast Line and ourselves have been relieved of all the unnecessary expense that goes with weighing cars; and about every so often these weights are checked by the Southern Weighing and Inspection Bureau. We are now operating on estimated weights of 65,000 pounds of logs to the car. It has ranged from 58,000 pounds as a minimum to 68,000 pounds but the maximum of that has been since a year ago last May. We have been working on estimated weights. As to what other respect I have comments to make upon any change in arrangement, in respect to the maintenance of the logging cars. You see, under our contract we are liable for any damage in the woods and as a working proposition I imagine most of the (Tes. p. 1290) damage is done in the woods, but as the thing works out we really maintain the logging cars. The Atlantic Coast Line the only thing they do at all, if there was something on the main line road that everybody in Chris-

tendom knew about then, they would pay the bill but otherwise we have to foot it, and their charges were so expensive under the—what do they call that A. R. A.-M. C. B. rules [fol. 1193] that we made an agreement with them sometime ago that we would do the work, and we are doing the work from anywhere from 50 per cent to 70 per cent less than they were charging us for it. We do all of the work to the cars except car wheels and brasses which they handle at their place. We do that at Palatka; and it saves us money and saves them money too. We do that at our machine shops. Just to give you an idea of the costs, they charged us $75.00 a thousand for timber for decking when we could go out in the market and buy it for $26.00, all the way from 26 to 35 dollars a thousand of the same quality; and labor they charged us $1.05 where we paid 30 cents for decking (Tes. p. 1291). Decking the cars. That is in accordance with the M. C. B. rules. Nothing irregular at all about that but I wanted to show you the saving to us to handle it the other way and to the railroads. As to when most of the damage to the cars occurs, I think the bulk of the damage is done in the woods; but as to the working out of it they have no expense in connection with the cars at all. As to when the Atlantic Coast Line made known to us that this rate was unsatisfactory to them, we began to get a little suspicious that they thought so when they really did not appear as bona fide defendants in this suit, when we read the testimony, but we never were actually told that until I saw Mr. Davis in 1929, January 1929, at Wilmington. He made the statement then that they had been wanting to get these rates up for a long while; he said since 1918 as I remember. It was all news to me because they had solicited our business and solicited our entering into this contract (Tes. p. 1292) arrangement with them in 1924 through their field force. We made additions to or extensions to our mill in 1924 at a cost of I could not tell you approximately how much from memory right off-hand but [fol. 1194] it was several hundred thousand dollars.

Q. Now, do you recall any conversation that you had with Mr. Langley who testified here yesterday in the spring of 1929 with respect to your logging movement?

A. Yes, sir; I spoke awhile ago about these trackage arrangements that we were considering entering into with these other railroads after we shut down and were not

handling logs because of our fire. At that time we were diverting our outbound for a while to them so they could see what a substantial amount it was and Mr. Langley came down to see me about it because I think his road was feeling it and we had a pleasant conversation and finally got on the Log Rate Case and he told me * * * * I have a memorandum that I made at the time. When Mr. Langley left, immediately upon his leaving I wrote this letter to Mr. Adair because I thought the things (Tes. p. 1293) Mr. Langley told me had a bearing upon this case, our position in this case; roughly he told me this, he said, in the course of our conversation he stated that our log trains, and the Brooks-Scanlon log trains had constituted one-half the tonnage hauled over his division. I might say at that time Mr. Langley was superintendent of that division, stationed at Ocala. Before he came to Jacksonville as superintendent, yes. And now, that Brooks-Scanlon had been forced to move their mill he hoped we would continue to haul over their division as without the log tonnage he did not know what the division would do. He also stated that the division obtained a larger net revenue from logs than from citrus fruit, vegetables, mellons, and so forth, which was its next largest tonnage. He said that while the freight on these latter commodities would probably be much [fol. 1195] more satisfactory than the old freight on the logs in reality they just about broke even on it, due to claims they were forced to pay the shippers. And, that the log movement was much more profitable and more economical to handle from an operating standpoint. He stated that the very nature of the log movement and the fact that his road was dealing with honorable concerns such as Brooks-Scandon and ourselves precluded any loss from claims on this traffic. That letter was written May 7th, 1929 (Tes. p. 1294), on the same day I had this talk with Mr. Langley.

We have had hardwood logs developed as an incident to and a by-product of our cypress logging operations. That hardwood is scattered throughout the cypress timber. We had considerable hardwoods in West Florida. You are talking about the West Florida timber. We have sold some of those hardwood logs to the Wilson Lumber Company at Perry. We entered into a contract with them in 1927 for the sale of all of our hardwood in that territory.

Q. Please tell me if you will in effect what that arrangement was and what the subsequent operation was under that arrangement and what if any change was made when the Cummer scale was displaced in February, 1929, by the Interstate Commerce Commission scale?

A. Well, at the time we went into the contract with Wilson Lumber Company various hardwoods were specified as a part of the contract, all of which we would cut down to 14 inches except ash, which was (Tes. p. 1295) 14 inches in diameter at the butt, and upwards, with the exception of ash which was to be cut down to 10 inches; that is right. It did not include black gum logs because Mr. Wilson did not want to obligate himself for an indefinite period [fol. 1196] of taking black gum logs, but by informal arrangement they did take black gum logs up to the time the high rate went into effect. About 40 per cent of our hardwood was black gum.

Q. Now, what happened when the high rate went into effect both in respect to the black gum logs and with respect to the other hardwood logs that were being taken by the Wilson Lumber Company?

A. They came to us and asked us if we would change the specifications on the sizes, raising them to 16 inches, with the exception of ash, which remained the same, which we did to help them out and, that amounted to about 15 per cent of the volume. I mean our volume was reduced by reason of the change in the diameters 15 per cent, and added to that was the 40 per (Tes. p. 1296) cent of the black gum, which made a reduction of about 55 per cent of the volume. We could not ship them the black gum when the rate went up, which was 40 per cent of our holdings. When the high rate went into effect in February, 1929, he discontinued taking the black gum logs. They are not willing to take them upon the high rate. And he changed the dimensions on the other hardwood logs by fixing his minimum diameter on everything except ash two inches higher than heretofore. That resulted in a reduction of about 15 per cent. The Wilson Lumber Company asked us to agree to the change in the diameter. Well the diameters were part of the contract, however, we made the change to help them out. In that connection, Mr. Adair, I might say we have cut all of the hardwood that we have in West Florida. We own no more hardwood over there. There (Tes. p. 1297) will be

no more movement from Hines to Perry as shown under exhibit No. 61. We have logged over all the land, all of [fol. 1197] our cypress tracts on which we own hardwood. The timber which we are logging in now has very little hardwood in it and next month our railroad is going to go through some hardwood which is owned by the Standard Lumber Company. The Wilson Cypress Company owns the cypress in that tract, and when we bought the timber there we bought only the cypress and not the hardwood. As to what has been done about that hardwood in this tract which we expect to commence logging next month, the Standard Lumber Company is disposing of that to the Wilson Lumber Company and we are to log it for the Wilson Lumber Company, and the specifications which we are working on now go back to the 14 inches, and we are to take the black gum. There are about one million and a half feet there, and the logging will be complete by October and then (Tes. p. 1298) there will be no more hardwood shipped from Hines.

Now since the Cummer scale has gone back into effect they are again taking the black gum and they are again taking small diameter logs along with the large diameter logs. As to what did we do with our hardwoods before we made this contract with Wilson, we left them in the woods. The trees between 14 inches and 16 inches in diameter at the butt we left in the woods. It would be impossible to go back and get those trees. They are so scattered that it would be uneconomical proposition when our railroads are out of there; so that they are a total loss to everyone because there will never be enough of them to warrant anybody going in there and getting them. The hardwood business, speaking in broad terms is a mere by-product and incident to the conduct of cypress and pine business in Florida (Tes. p. 1299).

Q. Now Mr. MacPherson, Mr. Fleishel on yesterday testified with respect to the location of various tracts of tim- [fol. 1198] ber in Florida at various mills. I am not entirely clear whether Mr. Fleishel by his testimony showed whether or not those particular mills were located in or so nearby the timber that transportation by common carrier was unnecessary—transportation of logs by a common carrier was unnecessary. I would like to ask you about a few

of those, to answer if you know, and if you do not know please say so. Now, he spoke of the so-called Eppinger & Russell or Montague tract.

A. That is the Montague tract, yes, the mill is in the timber. As to the tract near McClenny I don't know about that one. As to the mill at Sears, I understand that Mr. Fleishel testified that there is a mill down there, but they have had an altercation about the timber, but the mill and the timber are right together, and now the timber is in another ownership. When I say the mill is in the timber I mean that there is no transportation of logs by common carrier (Tes. p. 1300), that is, as far as the bulk of the timber. Of course there may be transportation of isolated pieces here and there but the timber that backs up the mill is transported to the mill by their own railroad. I don't know about the Dowling Camp Lumber Company. I have never been down there. My impression is that the mill is in the timber, near those mills, I recall he spoke of the mill at Gulf Hammock; that is in the timber. I have been down there. As to the McGowan-Foshee tract I have never been down there but I think their mill is in the timber.

Q. Mr. MacPherson my recollection is that Mr. Wilson in his testimony estimated the total amount of timber that you had in West Florida in 1927—January, 1927, or whenever that statement was made up, as around 250,000,000 feet. You say that you have from 90 to 100 million feet of cypress left now. Will you please explain the difference [fol. 1199] between the 90 and 100 million feet and Mr. Wilson's former estimate of around 250,000,000?

A. Well, we have had various estimates on that timber. It was purchased at different times, and we have had estimate of it at the time of the purchase, and then have had cruises go in and cruise all, and our estimates range from less than (Tes. —. 1301) 200,000,000 to a little over 300,000,000. The average of our estimates on that timber was 250,000,000, which we always figured in our minds we had there. We also figured we had about—that is talking about cypress; we also figured we had about 50,000,000 feet of pine and hardwood, but accurate estimates have never been made of that. The timber was cruised for cypress and the estimates were incidental on the hardwood and pine; it was never a careful estimate. We found when we got into it we had no such quantity of hardwood and pine at all.

I think probably 20,000,000 would be nearer to it. And, we have leased some timber there which I imagine is probably 8,000,000 feet. And our estimates on cypress have under-run considerably so we are going to actually cut out of that tract about 115,000,000 feet. Now that is what I know about it. I don't know what Mr. Wilson testified to. As to whether we are satisfied what we have got left is around from 90 to 100 million feet; not now, we have got about 50,000,000 feet. We had 90 to 100 at the time the mill burned down, at the time the old rate was displaced by the Interstate Commerce Commission scale. As to any so-called cypress mills (Tes. p. 1302) operated in Georgia anywhere; I know of no mill which operates exclusively on cypress. I know of two mills that cut cypress, they are members of the Southern Cypress Association; that is the [fol. 1209] Reynolds' Brothers mill at Albany, Georgia, which had been practically shut down since last August. Mr. Price testified yesterday that was one of the operating mills down there but, it has been entirely down since January, and practically down since last August. It cuts a million and five hundred feet of cypress normally, per annum. Other mills cutting cypress up there are The Reynolds-Manly company at Savannah and they cut from three and a half to four million feet yearly. The Case-Fowler mill I think is at Macon, cuts some cypress; I don't know whether they are operating now or not; they are in receivership. I think they are at Macon. They cut a small quantity of cypress because they cut largely poplar (Tes. p. 1303). The cypress was incidental to the operation. They might have cut four or five million feet a year, something like that. There is no substantial manufacture of cypress in Georgia. There is probably little cypress timber in Georgia. I think it is practically all cut out some time since. The only large manufacturer I ever knew up there was the Hebbard Cypress Lumber Company at Savannah, and they have been cut out for a long time. I have examined this exhibit No. 61 prepared and filed by Mr. Perrin. I think I have got it here with me. As to whether I can estimate the number of cars in that 18,000 odd cars shown as a two year movement the number of cars which were cypress logs as distinguished from hardwood or pine logs; I went through this thing by destinations where I knew there was nothing there but a cypress

mill, and I have made 12,267 cars of cypress out of 18,000 odd cars here (Tes. p. 1304). As to whether I can make an estimate as to whether the remaining cars on there were largely hardwood or largely pine I don't know; I should [fol. 1201] judge hardwood, though. But they may have been all cypress as shown here two years ago; but that movement is never going to be as great as that again because there is quite a movement there to Everglades at Loughman where they are going to be through this year, and they have been trying to clean up that country down there, to buy all of the logs that are left in the country, and I expect they have pretty well exhausted it. And, J. Ray Arnold at Groveland, quite a movement to Groveland. J. Ray Arnold has been shut down since last November. Also all of the movement from Hines to Perry and Hines to Carbur has ceased and the movement from—that Eastport movement, that is entirely from Perry and Carbur of course is gone. So practically speaking the movement is going to be much less than is shown in this case in the future.

Cross-examination:

I am not familiar with the Bray Lumber Company at Valdosta. I don't know whether they cut any cypress or not. I am not familiar with operations at Doctor Town. I don't know whether they cut any cypress or not. I have heard of the mill but I don't know what they cut. As to whether at our mill at Palatka we use any logs other than what we raft up the river; well, we are not rafting any logs at all as long as we are working in the western part of the peninsula. Our main movement is from Hines by rail over the Atlantic Coast Line to Palatka and has been since 1924 and will be until this 50,000,000 feet are cut out, unless we make some other disposition (Tes. p. 1306) of that timber. We have made some small purchases there in carload lots in the last two or three years as is shown in the shipments to Palatka there in that exhibit.

By Exam. Hoy:

Q. Then, you have got a large tract of timber that you have not started cutting, but that you expect to raft?

A. Yes, that is our main tract, 300,000,000 feet. We are not rafting that timber now. We have in the past. Our op-

[fol. 1202] eration has been in effect since 1889, and all of the timber has been rafted to the mill with the exception of this movement over the Atlantic Coast Line which has been going on since 1924 and which will be completed about October 1932.

As to whether we get any logs into Palatka off of the Florida, East Coast or Southern Railway, I think some few logs may come in. I could not say what percentage of the whole. Let me see. I think last year we purchased I think about 10 per cent of our cut around there, and I should judge that the bulk of it came in over the Atlantic Coast Line, but there may be some that has come in over the Southern. I am sure there have been some cars that come in from scattered locations over the Southern and East Coast but, the bulk of it over the Atlantic Coast (Tes. p. 1307) Line, because their lines run in that direction. Our lumber moves about 85 per cent to the North; and that 85 per cent is about evenly divided between the middle west and eastern seaboard, that is the New England states, New York, Pennsylvania and the East, with the tendency of the movement getting more and more to the West, to Ohio, Michigan, Illinois, getting out into Iowa and up that way. Our eastern business, particularly our New England business is falling off and our western business is increasing. We have handled some shipments by water but in the last year or so I don't think we have shipped anything by water in over a year.

By Mr. Alston:

Q. Mr. MacPherson, from exhibit No. 32 in this case I understood that your timber was in the Dixie, Lafayette and Taylor counties?

A. Yes, sir.

[fol. 1203] Q. And then, in your exhibit you stated approximately 250,000,000 feet in those counties.

Exam. Hoy: Do you want to look at that exhibit?

A. I have never seen it. I have never testified to any of this stuff before. I have never seen what has gone before (Tes. p. 1308) here. Our West Florida tract is at—we are out of Taylor county; we own no timber in Taylor county any more, we have cut out and leased the land. We have a very small amount of timber in Lafayette county,

we will be out in a few months, out of Lafayette county and the remainder is in Dixie county. Now, on the St. Johns river we have timber—I say on the St. Johns river, I mean in that locality tributary to the river, we have timber in St. Johns county, in Clay county, in Putnam county, in Flagler county, in Orange county, in Volusia county, and in Lake county. Now, I may have missed a county but that is where the principal—there may be an odd piece some place in some other county over there. I don't know through which of those last mentioned counties the Atlantic Coast Line runs. We are not going to ship by the Coast Line; log it by water (Tes. p. 1309). I agree with Mr. F. H. Wilson that is is more economical to locate the mill in the timber. I said that the plant at Palatka stood on our books at approximately $800,000. About $300,000 of that is new construction after the fire. That was the cost, that has been depreciated since. This is the depreciated figure I am giving $800,000. We depreciated on the unit basis. We took the amount of timber we have against the cost (Tes. p. 1310) of the mill and we depreciated so that when our timber is cut out the mill is wiped out. I cannot tell you offhand what unit of depreciation we used. It is [fol. 1204] about $1.50.

We had a new—of course all of these figures are based on the taxes basis with the government and we had an entirely reset up of all our holdings with the government in I think it was in about 1926 or 1927, I should judge; and at that time I imagine that that basis was changed from any way we had done in the past, I could not tell you what we had done in the past but, we had a new set up since along about 1927 on the basis I am speaking of now. Well, we have had mills on the same site since 1889. We had fires. We had a fire in which the mill was completely destroyed in about 1909, and it was then rebuilt. It was enlarged along in '23 to take care of this west—after we entered this contract on the Atlantic Coast Line—prior to entering the contract but, when we decided to haul those logs over there it was enlarged, and its capacity practically doubled. Then, we had a fire as I stated in my testimony in 1929; at which time our saw mill and our power plant was destroyed and then the mill was rebuilt along the same lines as the portions that were destroyed. Of course all through there have been additions to planing mills, additional drying kilns, and all that going over a long period of years.

The last purchase of new timber we made was of the so-called Paul tract, and I think it was in 1912, I am not certain. You see, a lot of these questions you are asking me came before my time.

As to whether we meet any competition from the Georgia manufacturers, yes; but in the east or west, no practically we do not. In certain instances we do meet competition in the East but, there is not enough volume of cypress in Georgia to make any competition but occasionally we will [fol. 1205] run on to some cypress up there in the eastern market that is being sold at a low price, because the cypress manufacturing in Georgia is incidental to the other manufacturing—incidental to pine and hardwood. As to when did we meet up with any cypress in the East from Georgia, I could not tell you where or when. I just recollect that our Sales Department has mentioned competition and particularly (Tes. p. 1312) the case of the fellow that was selling some stuff cheap up in the metropolitan district in the last two years. Of my own knowledge I don't know. I get it from our Sales Department. As to the estimated logs per car, we made a test the other day of cypress logs that ran about 10.8 pounds to the foot of logs, and we are loading per car about 6,000 to 6,500 feet I judge. As to what it would be billed at in pounds, I don't know. I do not see the freight bills. Up there where we are working on timber it weighed 65,000 pounds at the present time and that weight is tested. I had a letter the other day from the Standard Weighing & Inspection Bureau saying that they tested a train load and it weighed 67,000 pounds, and they asked us to reduce the loadings which we did. And, one time when we first started out, we started at 58,000 pounds and it had gradually gotten up (Tes. p. 1313). As to how many feet per car of cypress lumber I said I think it runs between 6,000 and 6,500 feet to the car ordinarily. It depends on the class of timber that you are in and the loading and it varies at different times under different conditions. We have run as low as 4500 feet to the car. The present condition of the lumber market is not good. There is no demand for lumber. That has been true for cypress—it is most aggravated in 1931 but it has gradually been getting [fol. 1206] that way for some time, ever since we ran into this western competition. I should judge that was along in the early twenties. In 1928, 1929 and 1930 we had a pretty

good market in those years. Our particular company did not do well because of the fire in 1929 but, we could not keep our inventory balanced because we were not producing and we had to lose some business; in our case our mill would not be a criterion of it. I would say generally that business was pretty good. The peak year in our business was long in the early twenties (Tes. p. 1314). We are cutting at our mill per month now an average of about 3,100,000 feet. In 1930 we were averaging about that, and we cut about 90 per cent of the capacity—now no we average that when we cut, but we shut down for six weeks in 1930. The fire was in 1929. In 1929 we averaged about the same. The mill burned in January, and we did not start cutting until September. The average while we were operating I would say was approximately the same.

By Mr. Gwathmey:

Q. Mr. MacPherson, you said something about having read the record in this case and noticed the attitude of the Atlantic Coast Line as a defendant at the first hearing. You read about the contract which the Coast Line had with the Brooks-Scanlon Corporation didn't you.

A. No, I did not say that I had read the record. I said that I had read some—I had read the Examiner's report and have (Tes. p. 1315) some of the testimony, but I have never read the record through.

Q. I will ask you this. Did the Atlantic Coast Line ever have any contract with your company concerning either the establishment of maintenance of the so-called Cummer scale?

A. No, sir.

[fol. 1207] Redirect examination:

As to when we made a contract with the Wilson Lumber Company for the sale of our hardwoods, I think it was in 1927. I think we first started shipping to them about the time the contract was made, but I am not certain about that. I do not know when their mill was completed. We have practically completed our (Tes. p. 1316) shipments to the Wilson Lumber Company under that contract, as far as any timber we own they are completed now; we are doing a little logging for them. As to what was the length of haul from our shipping point to Perry where the

Wilson mill was located I don't know. The shipping point is Hines. Those cars all moved by the Atlantic Coast Line Railroad. We have about 50,000,000 feet left to transport by the Atlantic Coast Line Railroad and when that is cut we are no longer shipping logs by the Atlantic Coast Line Railroad. At the time we made the contract with the Wilson Lumber Company the Cummer scale of rates was effective on logs on the Atlantic Coast Line in 1927. I am president of the Southern Cypress Association (Tes. p. 1317).. We have mills in Louisiana, Florida, Georgia and South Carolina. Member mills in Georgia are Reynolds Brothers at Albany and Reynolds & Manley at Savannah, Georgia. If there are any other mills in Georgia cutting any appreciable amount of cypress lumber, manufacturing cypress lumber I would like to know it because we need membership. It is my business to know that in getting membership. Our fees for membership have been based on production, therefore when I speak of the amount of cypress manufactured by these two particular mills in Georgia I certainly do have some foundation for speaking. The Reynolds mill has been practically shut down since August.

[fol. 1208] Q. And, has been actually shut down since January. Mr. (Tes. p. 1318) MacPherson there is one thing which I think Mr. Langley was mistaken about. Is your train load movement of logs from Hines to Palatka a night time movement or a day time movement.

A. Night time movement. Night time back, night time in and night time back. It leaves Hines after the passenger train, they leave Hines as I understand it they have no other traffic on the division at that time except an occasional log train when they are hauling logs. That is what the engineer of the railroad tells me. I am not located over there but I think the passenger train goes by around early in the morning around one o'clock or midnight. The logs are placed in the yard at Palatka early in the morning around 7 or 8 o'clock. Switch in half of the train, take out that half at noon and switch in the other half at noon, and pull the other out, and it is about 4 o'clock in the afternoon, and that is all we see of it (Tes. p. 1319). As to the estimated weights, as a matter of fact that is an arrangement made through the Southern Weighing and Inspection Bureau, and we have agreed to protect the rail-

roads with respect to weights based upon certain periodical tests, and if the loading—if we are loading light they make tests and we adjust, and if we are loading heavy—it is something that you can not control exactly in loading logs; you have different sized, different quality of timber some more rot in it than other, and run along in strings we try to keep it as fair as we can. The Bureau represents the railroads in those matters.

Cross-examination:

The Case-Fowler Lumber Company is not a member of our cypress association. I did not mean to infer that all manufacturers of cypress are members of our association [fol. 1209] no; but I wish to give the impression that there is not much cypress produced up there by these mills. There is no mill as I stated producing cypress and nothing else but that (Tes. p. 1320) in Georgia. I did not testify that there is no cypress timber in Georgia. It would be a pretty broad statement because I imagine * * *

Exam. Hoy: Just say no, if there is a fact.

As to whether I am sure that this log train that leaves from Hines to Palatka for our company leaves Hines at night; it is the impression that I have. It comes in—I know we do not see the cars until 7 o'clock in the morning. I do not know what time they get into the yards but our logging superintendent tells me—I got it from him—that it left after the passenger train. I have not seen it leave. I have seen the cars arrive at our plant. I have not seen it arrive in the yards in Palatka, no (Tes. p. 1321). As to whether our company makes repairs to those cars as well as to the wheels and steel sides and things of that sort, I understand that we make all of the repairs except wheels and brasses. As to the steel sides I think we do that repair work. As to whether we are equipped for that, we have a machine shop and an expert machinist and all that at our plant.

Q. Well, a machine shop for one thing is not a machine shop for (Tes. p. 1322) everything.

A. Well, the information I have comes from our machine shop foreman who is in charge of that work and he tells me that they do all of the repairs except wheels and brasses. There is a difference between the cleanness with which

we log our timber under the Cummer scale and under the intrastate rate on cypress timber. When the high rate went into effect we had our woods foreman in the mill and [fol. 1210] watch the cutting, showed him logs that he was shipping in under the old rate, which we would have been able to get something out of, you see and he was instructed on the lower class of logs to leave them in the woods. And as working out the matter I asked him what percentage that would mean and he said about 10 per cent of the cypress was left in the woods. The new rate reduces the volume 10 per cent and that additional 10 per cent is left in the woods. (Tes. p. 1323). It would not be practicable to go back and relog that cypress timber. We are getting something out of it because we put ties crews on and cut our own ties now, but when that was in effect the high rate was in effect. It takes a pretty good tree to make a tie. So that there is a difference in the amount of volume hauled of about 10 per cent under the old rate and under the rate prescribed by the Interstate Commerce Commission. Since the Cummer scale is back in effect we are again logging our timber clean.

By Mr. Alston:

Q. Mr. MacPherson, you said 10 per cent in volume of your haulage. You seem to be hauling the same number of cars?

A. Yes, but we would leave that much more timber in the woods at the tail end, there would have been so many more cars, we would have been getting through that much quicker up there.

By Exam. Hoy:

Q. In feet of lumber or logs, when you say 10 per cent (Tes. p. 1324)?

A. Talking in feet of lumber.

By Mr. Alston:

Q. Well, what extent?

A. I mean feet of logs, not feet of lumber but feet of logs. As to how many cars of logs it takes to make a car of lumber, that is a pretty hard one to answer in cypress; the timber varies so as to defect and waste I could not give [fol. 1211] you an answer that would mean anything. As

to whether ordinarily in hardwoods it is supposed to b
three cars of logs to one car of lumber, I could not tell you
This depreciation of about $1.50 per thousand is based, no
on logs, but on our mill cut on a lumber scale, per thousand
feet of lumber.

F. B. LANGLEY, recalled as a witness, having been pre
viously sworn, testified as follows:

The log train that moves from Hines to Palatka leaves
Hines around 2 P. M. The passenger train, to which Mr
MacPherson has referred, passes Hines about 1:30. I do
not know the exact figure. Between 1:30 and 2 P. M. I
is about an eight hour run which would put them into
Palatka about 10 P. M. As to what repairs are made by the
Wilson Cypress Company on the cars, they take care of any
damage to equipment that occurs on their logging rail
road. That does not include wheels. The cars are metal
with steel sides. I am not in a position to say just what
they are equipped to do, but I do know that prior to April
1930 we took care of that repair work. I put it up to that
time because that was the time I left that division as super
intendent (Tes. p. 1326).

Exam. Hoy: It is understood that the Atlantic Coast
Line will furnish parties to this case the following:

For the movement of logs from Hines to Palatka for the
year 1930, showing the same out-of-pocket expenses which
are shown as out-of-pocket expenses on sheet 2 of Witness
Lamb's exhibit 84, those items are: 401—Trainmen; 392—
Train Enginemen; 394—Fuel for train locomotives; 397—
Water for train locomotives; 398—Lubricants for train
locomotives; 399—Other supplies for train locomotives;
400—Engine house expenses—train; 402—Train supplies
expenses. Show in addition the gross ton miles of serv-
[fol. 1212] ice involved in the movement of logs from Hines
to Palatka for that year. In addition show the same in
formation for out-of-pocket (Tes. p. 1327) expenses for the
empty and return movement and the gross ton miles of the
empty return movement.

It is understood that this information will be served on
the parties on or before July 1, 1931.

It is also understood that if the interveners or the State
of Florida intend to introduce any cost study at the further

hearing or any exhibits that are so intricate that it will take time to analyze before opposing parties are expected to cross examine, they will furnish copies of such exhibits to Mr. Gwathmey and Mr. Alston of the Atlantic Coast Line, and to Mr. Price representing the complainant within at least 10 days before the day of the further hearing.

Mr. Norman, I understand you want to call to the Commission's attention for action the motion that you made on the record requiring the defendant to furnish information showing the revenue and the number of cars of logs moved intrastate in Florida during the years 1926, 1927 and 1928.

Mr. Norman: I do (Tes. P. 1328).

[fol. 1213] Washington, D. C. July 20, 1931.

Exam. Hoy: We will start then with the cross-examination of Mr. Lamb, for the Atlantic Coast Line.

Mr. Adair: Before I embark upon the cross-examination, I should like to inquire whether our freinds, the adversary, have ready for us the data which Mr. Langley was to furnish us on or before the first of July. That has not yet been received. I may say I telegraphed Mr. Alston with respect to it Tuesday or Wednesday of last week and I have had no reply.

Mr. Gwathmey: Frankly, I overlooked the fact myself that this data was to be furnished on or before the first of July (Tes. p. 1330). Mr. Lamb is prepared to deal with that matter and has an exhibit here which will show the compilation that we are ready to submit. If you think it desirable to clear the matter up at this time, we will be prepared to offer that now.

Mr. Adair: We should like to see it as soon as possible. We apprehended we were to have it by an earlier date so we could study it.

Examiner Hoy: Are you going to offer that as an exhibit?

Mr. Gwathmey: Yes. Mr. Examiner, Mr. Lamb has compiled and is prepared to offer as an exhibit a statement showing the consist of log trains operating between Hines and Palatka, together with various items of out-of-pocket expense as enumerated at the last hearing, covering the month of November, 1930. The request which was made by

Mr. Gutheim was that this data be compiled and submitted for each month separately for 1930. We have found that [fol. 1214] the number of cars of logs handled during the months of November in this movement represents approximately the movement for each month in the year. We have available the information which will show the number of cars handled in each month and such information will substantiate that statement. In the compilation of this data it was found that in order to work up a separate exhibit for each month it would be necessary to put at least two men from the car accountant's office on the job and keep them there for quite a considerable length of time, so that we have decided (Tes. p. 1331) to offer at this hearing this statement which we believe to be thoroughly representative and ask if the gentlemen on the other side, after examining it, will be willing to accept it without insisting upon a separate statement for each month. If they feel they must have such separate statement we will, of course, work it up and submit it, but I very much hope that, after examining the exhibit for the month of November, it will be considered sufficient for that purpose. I will be glad to give you copies of this right now, Mr. Adair.

Examiner Hoy: On page 1137 of the record the question was: "Mr. Langeley, is it possible for you to get up within a short time the cost of your wages for your train crew and the amount of fuel that is used by you on this trip for a period of a month. Those figures are in your office, are they not" and so forth. I just call attention to that.

Mr. Adair: I will say first we shall be very happy to examine this statement for a single month and if we think it fairly shows the conditions or can be explained why we [fol. 1215] will not insist of course upon any more work than is necessary. If we may do so we will examine it and try to announce at the noon recess what our views are upon the subject.

Examiner Hoy: I just read that, Mr. Adair, to call attention to the fact that apparently request, as shown by the record, was for such information for a period of one month.

Mr. Adair: I may say, Mr. Examiner, the request as finally made, shown on pages 1326, 1327 and 1328, was for the period (1332) of a year and I understood to that our friends acquiesced.

Mr. Gwathmey: That is my recollection.

FRED PETTIJOHN, recalled as a witness on behalf of intervenors:

This map is a sectional map of Florida, issued by the Department of Agriculture and is the official map issued by the United States, both as to counties and as to railroads.

Exam. Hoy: It will be accepted as Exhibit No. 100.

GEORGE W. LAMB was recalled as a witness on behalf of the defendants.

Cross-examination.

By Mr. Gutheim:

Q. Mr. Lamb, I think we were agreed at Jacksonville that 1926 was the top of the Florida boom, is that correct?

A. I do not know that any reference was made to that fact. 1926 was a large year in the Florida operations (Tes. 1335). I do not believe that it was the largest year from the standpoint of gross revenues up to that time on the Coast Line; probably 1925, as far as I recall. Wait a minute. I may be able to give you that information. I [fol. 1216] think that is a correct statement. 1926 was the highest with respect to gross. As to whether, incident to that boom, there was a considerable expansion of transportation facilities in Florida, I find that in 1926 there were about 40 miles of road added to the Atlantic Coast Line, in 1926, more than in 1925. As to whether there was a general expansion of existing facilities, to be perfectly frank I cannot answer that definitely. As you recall I came with the Coast Line on June 1, 1930, and I am not fully familiar with all of the various improvements that were made in the past years. I do know there were certain additions made to the lines in Florida, but as to just the extent, I am unable to say.

Q. Well, is it a fact, Mr. Lamb, that capital improvements, as a rule, are quite extensive so far as the time of the improvement (Tes. p. 1336) is concerned and cannot be chopped off over night?

A. Well, naturally, if a certain amount of expenditure has been made on an improvement, it is necessary to complete that improvement when the larger proportion of the authorized expenditure has been made. In other words it would be unwise to spend a million dollars on a million and a half dollar project and leave it in an uncompleted condition. The probability is that wise judgment would cause the additional half million dollars to be expended to complete the facility.

Q. Now, at page 1068 of the transcript, Mr. Lamb, you speak of certain assignments of accounts being made on the respective equipment mileage percentages. That is at lines 2 and 3. Should that be equipment and mileage percentages?

[fol. 1217] A. No, sir. The sentence beginning at the bottom of page 1067 reads: "The tentative valuation of equipment, as found by the Commission, was brought up to 1926 through actual expenditures for additions and betterments less retirements and for each year to 1930 and assigned to Florida on a respective equipment mileage percentage." Now, that has reference to the locomotive mileages for value of locomotives and freight cars, mileages for the value of freight equipment and passenger cars and mileages for the value of passenger equipment. I might say that that basis was adopted in accordance with the letter from (Tes. p. 1337) the Florida Railroad Commission, dated January 26, 1918, addressed to H. C. Prince, Comptroller of the Atlantic Coast Line Railroad, in which he said: "Suggest that you use equipment mileage basis for your equipment cost." That was signed by G. H. Eng, statistician of the Railroad Commission in Florida.

Q. Will you give us the termini of the Atlantic Coast Line mileage in Florida that is not included within your third division and would you do it by reference to this map of the State that has just been introduced?

Mr. Gwathmey: You mean the northern termini?

Mr. Gutheim: No, I mean the termini in the State. That takes in the number of miles that are not included on the third division.

The Witness: Our report to the Florida Commission does not show separately the details of the mileage by termini. I will endeavor to mark it off on the map from another record. The third division operates all of the lines south of

[fol. 1218] Jacksonville, including the line running a little bit north of Jacksonville in a southwesterly direction, known as the St. Petersburg line. I am afraid I cannot give you the detailed mileage—that you are requesting there, because I do not happen to have the detail in our report. I will be very glad to furnish it for you, if you will let me know exactly what you want. (Tes. p. 1338.)

Q. Tell us at this time what the termini are between which the Atlantic Coast Line has mileage in Florida that is not in your third division?

A. I can take it from the official time table, give you the mileage of the third division, but it will not give you as between cities there. I cannot give you that. I will be very glad to get the information for you and furnish it for the record.

Q. Never mind the mileage. Give us the termini. Start in at Jacksonville and tell us whether this line runs northwest from Jacksonville is in your third division or not? Is the line running northwest from Jacksonville to the point marked Folkston in your third division?

A. No, sir.

Q. Now, travel down this line that runs southwest from Jacksonville until you find the next branch of the Coast Line that goes in a general northerly direction and tell us whether that is in your third division.

(Discussion off the record.)

Mr. Gutheim: Well, do you agree, Mr. Lamb, with what Mr. Langley stated on page 1133 of the record. to the gen-[fol. 1219] eral (Tes. p. 1339) effect that the line from Jacksonville going northwest through Folkston and the lines west and north of High Springs are not in the third division?

A. I assume that Mr. Langley is more familiar with the termini of the third division than I am, and without having an opportunity to definitely check the mileage, I would be compelled to agree that his statement is perhaps correct.

Mr. Gwathmey: If you will permit me to say say, Mr. Gutheim, I do not think your statement correctly set forth what Mr. Langley said.

Mr. Gutheim: Well, how would you state it?

Mr. Gwathmey: I would state it the way he stated it in the record. Do you want me to read it?

Mr. Gutheim: Yes.

Examiner Hoy: Wait a minute.

Mr. Gutheim: What I want to get definitely set with Mr. Lamb is that the figures he has given on which he has proceeded to make his averages, as the figures for the third division include everything in the State of Florida except the line Jacksonville and northwest to Folkston and the line from High Springs west and north to Lake City and beyond Dupont and north through Live Oak. Do you agree to that?

The Witness: The figures I worked on were the third divisions and embraced all of the mileages operated as the third division only.

Mr. Gwathmey: I would like to direct attention here to Mr. (Tes. p. 1340) Langley's description of the third division as shown on page 1102.

[fol. 1220] Examiner Hoy: It looks to me like Mr. Langley who testified he was superintendent of transportation of the third division, ought to know what comprises his own division. He described it fully on the record and said certain lines were not included in the third division. Now, Mr. Lamb said he took the costs of all the lines in the third division. So he must have taken the costs of the lines in the third division as described by Mr. Langley, I should say.

Mr. Pettijohn: He says "north of High Springs." Now, whether that includes the Lake City branch or excludes it, we do not know. It is north.

Mr. Gwathmey: What Mr. Langley said was this: "We have a line from High Springs up to the State line, which is up north of Live Oak." If you locate Live Oak on the map you can clearly identify that line. He then stated that the balance of the mileage in the State, exclusive of this part over here near Jacksonville, was in the third division; therefore, the logical assumption from Mr. Langley's testimony is that the line running from Lake City Junction up to Lake City is in the third division. Whether it is or not I do not know.

Mr. Pettijohn: That is just the point. We have Mr. Langley's statement as to one thing, and when Mr. Lamb makes his statement on page 1102 he says the third division is from Jacksonville south, from High Springs south and from Fincher (Tes. p. 1341) to Thomasville.

Mr. Gwathmey: We will send a telegram to ascertain if the Lake City branch is in the third division.

[fol. 1221] Mr. Pettijohn: Will you find out the total mileage of road operated in Florida not included in the third division? That is really what we want.

Mr. Gutheim: We want the termini between which there is mileage of the Coast Line in Florida that is not in the third division, as Mr. Lamb has used that term.

Mr. Gwathmey: In order to figure the exact mileage to and from the state line, it will be necessary to complete the thing and give it to you absolutely accurately. We will undertake to give you that information before the close of the hearing today.

By Mr. Gutheim:

Q. Mr. Lamb, can you tell us briefly the principal classes of freight traffic that the Coast Line handles on the third division.

A. Well, there is a considerable volume of fruits and vegetables. I believe there is phosphate rock.

Mr. Gwathmey: Mr. Gutheim, would you object to asking that (Tes. p. 1342) question of Mr. Perrin? Mr. Lamb is not a traffic officer of the Coast Line.

Mr. Gutheim: Mr. Lamb made up the cost statistics on the basis of the entire traffic on this division indiscriminately, and what I want to find out is whether in making up that cost he knew what the traffic was.

The Witness: For example, in the year 1930, as shown by our report to the Florida Railroad Commission, at page 909, we handled 1,077,516 tons of products, of agriculture, 70,812 tons of animals and products 3,792,048 tons of products of mines. Let me answer this question first; then I will [fol. 1222] qualify it. 1,158,650 tons products of forest: 1,395,416 tons of manufacturers and miscellaneous, with 165,616 tons of l. c. l. freight, making a grand total of 7,660,058 tons. As practically all of the third division is operated in Florida and constitutes the majority of the mileage in Florida I should say that that is fairly representative of the commodities handled on the third division. That fruit and vegetable traffic is largely interstate in character. I should say very largely, the bulk of it moving to the north and west outside of Florida. (Tes. p. 1343) It receives on

this third-division one of the terminal services incident to the interstate movement.

Q. When that fruit and vegetable traffic moves as you say north and west, does it move for the most part through Jacksonville?

Mr. Gwathmey: Mr. Examiner, I submit this witness is not qualified to answer that question. He is the accountant on the Atlantic Coast Line Railroad.

Examiner Hoy: If he does not know he can say so.

The Witness: From my personal knowledge of the conditions on the Coast Line I do not believe I am qualified to definitely answer that question.

Mr. Gwathmey: We will be glad to give the information through another witness, if it is necessary.

By Mr. Gutheim:

Q. Now, is it correct to say that in the cost statistics that you have compiled and made of record here, beginning with your Exhibit No. 84, you reach finally a unit cost for all traffic?

[fol. 1223] A. I so stated in my direct testimony that that represented the average cost. That necessarily would include our cost of handling perishable traffic, necessarily. As to whether that perishable freight traffic is a traffic the cost of handling which is higher than the average, that is a transportation feature which I think a transportation witness should answer. I do not know. I have never made any investigation on the ground, or in the field, with respect to the handling of this perishable freight traffic. I have not made any investigation whatever specifically of the cost of handling this perishable traffic by freight; I made some investigations with respect to handling strawberries by express. As to whether I know Mr. George H. Parker, a railroad accounting man and cost statistician of Washington, D. C., I do not.

Q. Are you aware that in a proceeding before this Commission entitled Docket No. 16939, Railroad Commissioners of the State of Florida versus the Aberdeen and Rock Fish Railroad Company, et al., Mr. Parker appeared as a witness on (Tes. p. 1345) behalf of the Atlantic Coast Line, the Seaboard Air Line and the Florida East Cast?

A. I do not.

Mr. Gwathmey: We will admit it.

By Mr. Gutheim:

Q. I call your attention to the fact that as shown at page 1617 of that transcript and with respect to the transportation of perishable freight in Florida, Mr. Parker stated in respect to the scope of his work as follows: "The study embraced an analysis of train sheets showing the train movements, wheel reports, yard reports, supplemented by explanations of operating officers familiar with the practial con- [fol. 1224] ditions, as well as such data regarding operating costs as are obtainable in the general offices of the company and the results of the study are embraced in the various tables and explanatory matter which appear in the exhibits which I shall explain." He also stated at page 1618 when asked approximately how long he had been working on the matter, as follows: "I started in, as I recall it, about the 10th or 12th of September, and I have been engaged practically constantly on it ever since," his testimony being given the following April. Have you ever made any so extensive investigation of the transportation of perishables in the third division?

A. I have not.

Q. Mr. Parker, after stating the scope and the time of his (Tes. p. 1346) investigation, summarized his conclusions, beginning at page 1618, as follows——

Examiner Hoy: Just a second. Mr. Lamb says he has not made any investigation of the fruit rates. Just what is the object of this?

Mr. Gutheim: The object is to find out just what Mr. Lamb knows about the comparative costs of this particular traffic, which, he says, is included in the cost that he has made for traffic as a whole.

Examiner Hoy: I do not see how he can know much when he has made no investigation as to the fruit traffic. He says he has made no investigation except as to express rates.

Mr. Gutheim: Well, he has presented a cost study here which he says is indicative of the cost of transportation generally on the third division and if that cost is merely a cost of all traffic, what I am trying to find out is whether [fol. 1225] as to cost of all traffic it is indicative at all of the cost of log traffic. Included in that cost of all traffic is the cost of perishables.

Examiner Hoy: That is true. He admitted that.

Mr. Gutheim: I am trying to find out what he knows of the cost of handling perishables.

Examiner Hoy: I do not think you can find out what he knows by asking him a long involved question as to what Mr. Parker testified to in another proceeding, then asking him if he agrees to it, when he has made no investigation. He will undoubtedly (Tes. p. 1347) say he does not know. I do not want the record burdened with that. I think he has shown how he has figured his. If you want to show something else, of course, that is your privilege.

By Mr. Gutheim.

Q. Have you, Mr. Lamb, made any attempt whatever in your various exhibits and in your testimony in this proceeding to show any figure representative of the cost of transporting logs other than a figure representative of the cost of transporting all traffic?

A. I have presented figures——

Q. Now, will you answer the question?

A. Let me answer it in my own way.

Q. Will you answer it yes or no; then make your explanation?

A. No, sir.

Mr. Gutheim: Now, Mr. Examiner, I submit the question can be answered yes or no, or it should be.

Examiner Hoy: Well, let the witness answer the question. We do not want any long involved answer as to an [fol. 1226] explanation of what you have done but we do want an answer to the question in your own language.

The Witness: All right. I have stated on my exhibits beginning with No. 86 and running through to 99, two sets of figures. Column A shows what I term haulage costs, which are away below the costs of actually handling logs, in my opinion. In column B I have shown all expenses which would (Tes. p. 1348) embrace the cost of handling your perishables and I have stated that in my opinion the cost of handling logs is somewhere between the figures shown in Column A and in column B.

[fol. 1227] As to whether the figure in column A on Exhibit 86 represents the cost of transporting logs, no, I think it understates the cost of transporting logs. It does represent the out-of-pocket cost of transporting all traffic.

The figure in column B does not represent the cost of transporting logs; as I have previously testified, I think the cost of handling the logs is somewhere between the figure shown in column A and in column B. The figures shown in column B show the average cost of transporting all traffic, as I testified in my original testimony, column B, handling all commodities.

Mr. Gutheim: Now, you stated that in your opinion the cost of transporting logs lay somewhere between the figures shown in column A and column B. What leads you to that conclusion? (Tes. p. 1349).

A. Well in column A I have eliminated some nine million dollars of expenses embracing all yard items and other items, some of which expenses, in my opinion, are properly attributable to the handling of logs; and, as I stated in my direct testimony, I think it is impossible to determine with absolute accuracy the cost of handling any one commodity; but I have shown for the information of the Commission the figures on two bases in column A with the elimination of all of the yard expenses and other expenses, the cost which I believe understates the cost of handling logs. My experience in studying accounts I do not believe it would be proper to include all of the expenses shown in column B; therefore, as I have previously stated, the cost lies somewhere between column A and column B.

[fol. 1228] Q. Is there anything other than your experience in studying accounts that leads you to that conclusion?

A. The figures would so indicate, in my opinion, that the costs in column A are too low and the costs in column B are too high and that the cost lies somewhere between the two.

Q. Is there anything other than that general study of accounts and your observation of the figures in column A and column B that leads you to the conclusion that the cost of transporting logs lies somewhere between the limits of two columns of (Tes. p. 1350) figures?

A. I base my statement on the figures I have developed and my general knowledge of cost accounting.

Q. Now, on this exhibit 84, as I understand your method of computation, you have taken out the total of yard accounts as among the items eliminated in reaching your conclusions. Now, do you know whether it is possible to segregate yard accounts as between road expense as distinguished from terminal expense?

A. Our reports to the Commission prescribe that and we make that separation in accordance with the instructions of the Interstate Commerce Commission as between freight and passenger.

Q. Well, once you get the freight proportion of yard accounts, can you then segregate that proportion between road expense and terminal expense?

A. Well, the separation as to yard account automatically separates your road expense because yard expenses are not road expenses.

Q. Is it not the fact, nevertheless, it is possible to make a [fol. 1229] separation of these yard expenses, between the terminal expenses and the road expenses?

A. I do not clearly understand your question. The yard expenses are set up to distinguish them from road expenses in your classification of accounts. You have the expenses set up separately for yard and road. Take, for example, Account 202 (Tes. p. 1351). We set up roadway, maintenance, yard, and subdivide roadway maintenance and "other", which is your road account.

Q. Do you know Mr. D. McCaig?

A. Yes, sir; he happens to be the Comptroller of the Atlantic Coast Line Railroad, my superior officer.

Q. In Docket No. 17936, in re, refrigeration charges on fruits and vegetables, berries and melons, from the south, beginning at page 1446, Mr. McCraig criticised a formula used by Witness Price and asked to state in detail what corrections should be made therein in order to more clearly reflect the actual cost of handling ice in bunkers of refrigerator cars. He said, among other things, at page 1450: "The formula ignores the fact that a substantial proportion of the expense of certain yards is chargeable to line operations". Do you agree to the fact that a substantial proportion of the expenses of certain yards is charged to line operations?

A. I would like to read his testimony to see what he has testified to. There may be some explanation. What Mr. McCaig testified to was in connection with bunker ice and he shows in connection with refrigeration that there were certain switching hours chargeable to classification of interchange service. By that was meant cars that are going [fol. 1230] through terminals, from one connection to another, which is treated in Mr. McCaig's opinion as an inter-

change service chargeable to line haul (Tes. p. 1352). However, I have eliminated all of that in my calculations and that is another reason why the figures shown in column A in my exhibit are understood.

Mr. Pettijohn: Are you sure, Mr. Lamb, that Mr. McCaig in arriving at his testimony confined it to the interchange of switching crews, or, did he also include therein classification of cars in all yards?

Mr. Gwathmey: Before the witness is asked to answer that question, I submit in all fairness, that he should at least be given an opportunity to read Mr. McCaig's testimony in full to see just what the subject was and what was said.

Examiner Hoy: I think he might answer the original question as to whether he agrees with Mr. McCaig or not?

The Witness: The classification of the cars in breaking up a train and making it into another train going to a connection is part of that service; but in my figures in an effort to be absolutely fair I showed the minimum costs. I have excluded every bit of that expense, which, according to Mr. McCraig's testimony, should be included as a part of the line expense. I have included it under column A. Not under column B (Tes. p. 1353).

Q. Why did you not make an attempt to divide the yard expense in the manner in which Mr. McCaig indicated it should be done?

A. For two reasons: One the limited time I had in which to prepare these exhibits; and, second, I felt that by adopt-[fol. 1231] ing the method which I did there could be no criticism of the costs shown in column A; that unquestionably they were too low.

Q. Now, with respect to the question of this perishable traffic, I find that Mr. McCaig, in the same hearing in 17936 at transcript page 4836 stated: "It will be noted that in the opinion of this authority the tonnage that can be moved at a speed of 20 miles an hour is about one-third less than traffic scheduled at about 12 miles an hour".

At transcript, page 4839 he referred to an authority from the American Railway Engineers Association in support: "Of my statement that the tonnage handled in expedited freight service is transported at a greater cost than the average cost of handling all traffic".

Mr. Gwathmey: I do not want to interrupt this cross-examination, but surely what counsel is doing now is not proper cross-examination of this witness. If Mr. Gutheim desires to put into this record certain testimony that may have been given by Mr. McCaig in another case why there will be an opportunity for him to do it, but this Lamb has distinctly stated he has made no study of the separate costs of (Tes. p. 1354) handling perishables.

Examiner Hoy: Let him complete his question first. As I understand it, he is trying to test out his ability to make a proper cost study.

Mr. Gwathmey: Oh, no, not at all.

Examiner Hoy: It goes to qualifications more than anything else, or to his theory.

Mr. Gwathmey: Not at all. I submit this goes to the [fol. 1232] question that arose awhile ago as to the relative cost of handling logs as compared with other traffic and the whole purpose of this is to read into this record testimony given upon that subject by another witness in another case.

Examiner Hoy: He has not read anything in yet except in the form of questions. That is not testimony. He has asked some questions based upon it. He has not read any testimony in there.

Mr. Gwathmey: He just read a moment ago from Mr. McCaig's testimony.

Examiner Hoy: He reads that. It is really a part of his question. It is not completed yet.

Mr. Gwathmey: But I object to counsel reading into this record statements made by other witnesses in other cases.

Examiner Hoy: He is not doing that. He has read some statements as part of his question. What he has read into the record is not in evidence in this record. They are all in the form of questions so far (Tes. p. 1355).

Mr. Gwathmey: The effort is to get it indirectly.

Examiner Hoy: It is preliminary to a question. I presume he is going to ask him if he agrees with Mr. McCaig's theory.

Mr. Gwathmey: If he does, I submit that this witness has testified plainly that he has made no such study.

Examiner Hoy: We will come to that when the question is completed. Let him finish the question; then make your objection.

By Mr. Gutheim:

Q. At transcript, page 5478 Mr. McCaig was queried and answered as follows: "What condition would make it [fol. 1233] more expensive per gross ton mile on the Atlantic Coast Line to handle perishables than to handle all freight?

"A. The reason you stated, the necessity for speed.

"Q. And it is entirely a matter of speed?

"A. My theory was based upon that fact."

At page 5506 Mr. McCaig was queried and answered as follows: "Mr. McCaig, does the handling of the perishables by reason of the necessity for speed have the effect of reducing the economies which you might effect as to the handling of the other traffic not perishables?

"A. That is true."

I ask you, Mr. Lamb, if you disagree in any respect with the answers given by Mr. McCaig, your superior, to those questions, and whether you adopt his answers (Tes. p. 1356)?

Mr. Gwathmey: I object to the question on the ground it is not proper cross-examination.

Examiner Hoy: That is not proper cross-examination, in my estimation and the objection will be sustained.

By Mr. Gutheim:

Q. Let me ask you, Mr. Lamb——

Mr. Gwathmey: I move that the question be stricken from the record as an indirect effort to get into this record statements of another witness in another case which have no relevancy here.

Mr. Gutheim: I shall use the same basis for the next question, Mr. Examiner.

Examiner Hoy: The question will stay on the record. It is not proper cross-examination and the witness — not answer it.

[fol. 1234] By Mr. Gutheim:

Q. Mr. Lamb, I asked you whether you, as was Mr. McCaig, qualified to testify as did he with respect to the effect of speed and the necessity of speed upon the han-

dling of perishable traffic as distinguished from dead freight?

Examiner Hoy: That is improper cross-examination. He has not testified anything as to a cost study based upon perishable fruit.

Mr. Gutheim: I submit, Mr. Examiner, that is just testing this witness' qualifications. We are entitled to know whether (Tes. p. 1357) he has any qualifications to testify with respect to the effect of speed.

Examiner Hoy: He has not testified to that. That is all based upon perishable fruit.

Mr. Gutheim: I am asking him because I want to know what his qualifications are and whether he knows.

Examiner Hoy: Qualify him as to the study he has made; examine him as to the qualifications with reference to the study he has made. He has made no study based upon the cost of perishable freight.

Mr. Norman: He presented a study based upon all traffic, which includes perishable freight. The question is——

Mr. Gutheim: Does he know anything about the difference between perishable and dead freight? What does he know?

Mr. Gwathmey: If I am not very much mistaken, Mr. Lamb stated sometime ago that he has not undertaken to make a separate study of the cost of handling perishable freight as distinguished from other traffic.

Examiner Hoy: That is true.

[fol. 1235] Mr. Gutheim: But he has also made a cost study of the transportation of all freight as indicative of the cost of transportation of logs. What we want to know, is to what extent he is qualified to say that he can deduce anything about the transportation of logs. If he does not know anything about the difference between handling perishable and unperishable (Tes. p. 1358) freight he is not much qualified and I submit we are entitled to know.

Examiner Hoy: My ruling stands. Go ahead with the cross-examination.

Mr. Gutheim: May we have an exception to that.

Examiner Hoy: Certainly.

Mr. Gutheim: Now, Mr. Examiner, we desire to reserve the right to submit, and will submit, upon rebuttal, or offer upon rebuttal, the testimony of George H. Parker, a witness for the Atlantic Coast Line in No. 16939, Railroad Commissioners of the State of Florida vs. the Aberdeen

Rock Fish Railroad Company, et al. We will put in all of Mr. Parker's testimony.

A. On my exhibit No. 79 as to what basis item 2 was assigned to Florida operations; if you read the note you will find that that investment used on line 2 of this exhibit is based upon the tentative valuation (Tes. 1359). Item No. 3 is on a track mileage basis. Item 5 is assigned to Florida operations on basis of mileage percentage, track mileage percentage. Item 3 is Materials and Supplies and item 5 is Cash. May I correct that statement as to miles operated. My answer should be in both instances miles of road owned in getting at the investment. Item 25, uncollectible railway revenue is assigned to Florida operations [fol. 1236] directly. Item 27, hire of equipment, was assigned to the State (Tes. 1360) on the basis of locomotive miles made in each state. Item 28, joint facility rents was assigned to Florida operations on the basis of location of the facility. As to item 3, assigned on the basis of the miles of road owned the percentages as used in both cases were the percentage of operated mileage in Florida to the system mileage, in other words, miles of road operated; by so doing we assigned the same amount of cash and materials and supplies for a single track mile of road as we do for a double track mile of road.

Q. In determining the value upon which the carrier is entitled to earn a return, the Interstate Commerce Commission goes through a rather involved calculation in arriving at the amount of cash and material and supplies to be allowed and does not accept balances in Accounts 716 and 708, do they?

A. We have made exceptions in the tentative valuation to the amount of cash assigned by the valuation department. These figures represent the proportion of the total cash that we have available for our working funds.

Q. Well, will you answer the question whether the Interstate Commerce Commission in determining value uses the balances (Tes. p. 1361) reported by the carrier in materials and supplies and the cash account and goes through a rather involved formula?

A. They do go through a rather extended formula, but, as stated before, we have taken exceptions to the apportionment made on that basis.

[fol. 1237] By Mr. Pettijohn:

Q. Mr. Lamb, if, in the year 1926, the year in which the carrier had its heaviest earnings and heaviest expenses, the Atlantic Coast Line Railroad was able to operate with $6,700,000 in round figures for materials and supplies and cash, why was it necessary in 1930, a year of depression, to have $8,100,000?

A. It was necessary because we reduced our material and supplies to meet the requirements of the operations in 1930 and we had that much cash, as shown for 1930.

Q. Now, the same amount of material and supplies upon a dollar value in 1930 would represent a greater amount of material and supplies than in 1926, would it not?

A. You mean the market price of material in 1930 as compared with the market price of material in 1926?

Q. Yes.

A. It might. It would depend upon the price of the material and I am not sure as to the cost of the various materials.

Q. Well, the purpose of allowing cash and material and supplies by the Interstate Commerce Commission in valuation is to meet (Tes. p. 1362) the expenses primarily, is it not?

A. To meet the cash requirements of a carrier.

Q. Prior to the receipt of the revenue or the collection of the revenue?

A. That is one of the elements.

Q. Let me ask you with respect to item No. 25. I understood you in answer to Mr. Turnbull to say that uncol-[fol. 1238] lectible railway revenue was a direct assignment to the State of Florida?

A. In reading from my memorandum I got one line below. Let me correct my answer and read as follows: Uncollectible railway revenues shown as item 25 is assigned to States on the basis of revenue accruing to said State. In other words, on a revenue basis, upon the same revenue basis that would be used, or, as was used, in assigning the revenue in the first place, which would be on a mileage basis of the individual shipment. Under hire of equipment, that was assigned on the locomotive mile basis. The biggest item in the hire of equipment is hire of freight train cars.

Q. Do you know the relative percentage of locomotive miles (Tes. p. 1363) in Florida to the system as compared to—— with freight train car miles in Florida to the system?

A. Your locomotive miles freight, Florida, percentage to the system is approximately 29 per cent, and your car miles, approximately 22 per cent; but in distributing the values of the freight equipment it is also a fact that the car miles made in Florida or in interstate are the car miles made up of not only the cars owned by the Atlantic Coast Line but all the cars operated or leased from other carriers or operated or owned by other carriers; therefore, the locomotive miles more nearly reflect the use of the car equipment assignable to Florida. The net hire of equipment is about $25,000 and with the hire of locomotives representing an expense of about $25,000 for locomotives I assigned in the year 1926 $659,000 hire of equipment to the State of Florida. We used the locomotive mileage as our basis for assignment because it more nearly represents the use of the equipment in these respective States.

[fol. 1239] I said that the net charge in the hire of equipment for locomotives was $25,000 (Tes. p. 1364). As to whether the balance of the expenses is for hire of cars, hire of freight cars was a credit balance and the hire of passenger cars was a debit balance and we used the year 1929.

Q. Then the only equipment that you could have used in connection with the transportation of logs for which you paid any hire would be steam locomotives, would it not?

A. Dealing with the figures of the system as a whole.

Q. Now, having a net charge of $25,000 in connection with the hire of locomotives, you have assigned to the Florida operations alone $50,630 in 1929 or over twice the system expense for hire of locomotives?

A. Bear in mind that Exhibit 78 covers all operations, passenger and freight and the hire of equipment in Florida and renting of passenger train cars, being the greatest amount or the greatest charge in the net hire of equipment, I think it assigns a very reasonably proportion of that debit.

Q. Would you also say that the joint facilities rents in the State of Florida was also largely passenger?

A. Joint facility rents were assigned to the State on the basis of the location of the facility. We have a number of

facilities that are passenger and a number that are freight. Some that are joint in the State of Florida.

Q. Is not the big item of joint facility rents in the State (Tes. p. 1365) of Florida the Jacksonville Terminal Com- [fol. 1240] pany and the Tampa Union Depot Company?

A. They are a big item of expense in Florida.

Q. Both passenger facilities?

A. No, the Jacksonville Terminals is also used to handle freight cars. There is a certain expense attached to the handling of freight cars in Jacksonville, on interchange. Jacksonville Terminal is in no wise assignable or apportioned to the movement alone, and in the case of the logs I have eliminated Jacksonville and have included no part of the Jacksonville rent, so far as the cost of logs is concerned. As to whether I have ever, in any other proceeding, undertaken to show the cost of handling any given commodity, I recall in my experience of some 30 years or more one time working up the cost of handling coal on the Middlesburg Division of the L. & N. Railroad. I thought it was a success.

By Mr. Norman:

Q. Well, if you can do it many years ago, if you have learned anything in the last 30 years, you ought to be able to do it now (Tes. p. 1366).

A. It depends on the conditions. It so happened on the Kentucky division of the L. & N. over 85 per cent of the entire traffic handled was coal; therefore, I was able to run down some 685 trains and assign the expenses to those trains and we considered that as the bulk of the traffic was coal it was fairly representative of the cost. That is the only case in my experience where I have estimated the cost of any one commodity. I do not know what percentage of the traffic from Hines to Palatka is logs. As to whether I [fol. 1241] have made any investigation to determine whether the conditions were such as to afford an opportunity to make a real study to show what it really costs us to handle the traffic, I have furnished you a statement to show the out-of-pocket cost of handling the traffic from Hines to Palatka. You have that if you want to use it.

Q. I want, if it is possible to get it, a study showing what it costs to handle logs, not out-of-pocket cost, the same kind of a study you made. My recollection is you made

one in the Slivers Case in Kentucky in connection with the handling of grain (Tes. p. 1367).

A. That was entirely different conditions than existing now. As I testified in the beginning, from my years of experience in cost accounting, I do not believe that the cost of handling any one commodity can be accurately ascertained and on the lines operating there is not only this log service but they handle all other traffic between Hines and Palatka. There are other commodities mixed in. It does not represent 85 per cent or 100 per cent of the traffic; therefore, I would not undertake to find the cost of handling the one traffic except on the basis I have used here, which, in my opinion, understate in column A and perhaps overstates it in column B. As to whether I think I can get anything actually through allocation, I think in the plan I have used I have a very reasonable figure from which the Commission can determine whether or not the traffic is remunerative. I cannot give you the exact cost of handling the logs, but it is somewhere between columns A and B. That allows an ample margin. Column A is materially understated and column B is perhaps a little [fol. 1242] bit overstated. I have arrived at those figures by the use of system averages (Tes. p. 1368). As to what percentage of transportation cost is out-of-pocket cost I would have to work that up for you, Mr. Norman. You mean of the transportation block of expenses. The out-of-pocket expenses of the total transportation expenses are 23.5 per cent, and of the haulage about 34 per cent. That is shown on my exhibit 86 and so forth. That is for the system as a whole. It is my judgment that it is impossible for the Atlantic Coast Line Railroad to present to this Commission figures which will be actual as to the cost of handling these logs. I so testify, with absolute accuracy.

By Mr. Pettijohn:

Q. You would not agree, will you, that the separation of operating expenses between freight and passenger, according to the rules prescribed by the Interstate Commerce Commission, was an actual separation, would you?

A. No; but the Commission has prescribed a formula under which (Tes. p. 1369) we make the separation and I have used the Commission's separation in my calculation.

By Mr. Gutheim:

Q. You were asked this morning about the proportion of perishable freight and vegetable traffic on the third division and I believe you gave in reply to the question some figures on tonnage of agricultural products. Can you tell us what the perishable fruit and vegetable traffic on the third division is with respect to the total perishable traffic on the third division?

A. No, sir. I haven't that information. I have never [fol. 1243] made any investigation into that at all. In my previous statement I gave the total amount of traffic in the State of Florida and as the preponderance of the mileage in Florida is on the third division I made the statement that the figures quoted by me were fairly (Tes. p. 1371) representative of the third division's commodities handled. That is agricultural commodities handled. I have no information whatever as to the perishable fruit and vegetable traffic handled.

Fred Pettijohn, a witness previously sworn and examined, was recalled and testified as follows:

Direct examination:

Mr. Turnbull: Mr. Examiner, at the Jacksonville hearing of this case I read into the record a statement of Mr. Matthews, Chairman of the Florida Railroad Company setting forth the position of the Railroad Commission in this matter, that it was their position that the Interstate Commerce Commission had no jurisdiction to prescribe intrastate rates on logs within the State of Florida. I simply wish to reiterate that is still our position and that while we are offering testimony in this case we still insist upon the correctness of our position in this matter (Tes. p. 1372).

A. I am the same Fred Pettijohn who testified at the former hearing in this case. I am familiar with the issues involved in this case. I have prepared exhibits which I desire to file. The first exhibit is a statement showing the Property Investment and Operating Income accounts of

the Atlantic Coast Line Railroad Company, Florida East [fol. 1244] Coast Railway Company and Seaboard Air Line Railway Company, for the calendar years 1921 to 1930, inclusive. This is Exhibit No. 101. I consolidated the results of operations of the three roads appearing in the title of this exhibit because the investment in these roads in the State of Florida, and the earnings of these three roads in the State of Florida represent over 85 per cent of the investment and earnings of all railroads within the State of Florida. For example, in 1929 the investment in road and equipment of the three roads in Florida was, in round figures, over $278,000,000.00, whereas, (Tes. p. 1373) the investment of all roads in the State of Florida was, in round figures, but $316,000,000.00. Furthermore, in 1929, out of a total operating revenue for all carriers in the State of Florida of $53,900,000.00, the operating revenue of these three roads alone amounted to $48,500,000.00, in round figures. In addition to the above, the Florida Railroad Commission is of the opinion that the Florida traffic of these three lines comprises the backbone of the traffic of these carriers, as we hope to show by a later exhibit. I, therefore, am of the opinion that the investment and the results of operations of the three carriers are more reliable and more informative with respect to Florida operations than are the results of any individual carrier. I chose a ten year period, first, because the defendant, in its Exhibit No. 78, covered the last year of the boom period and the four years immediately subsequent thereto, and I thought that in order to have a properly balanced statement and one which reflected reliable comparisons, that I should cover a period of four years prior to the first year [fol. 1245] of the boom; second, because I do not believe any comparison of property investment and operating income accounts with either an abnormal or subnormal period is proper, or furnishes reliable comparisons; and third, because I believe that a (Tes. p. 1374) comparison with the year 1921, excluding the boom years of 1925 and 1926 and the depressed year of 1930, will show, perhaps, as great a growth as could be expected by these carriers under normal conditions, and particularly so when consideration is given to the automobile, bus, truck and water competition which the carriers have been compelled to meet the last few years. In connection with this statement and in order that

there will be no misunderstanding, I wish to state that the amounts shown opposite item 2, Investment in Road and Equipment, comprehend only the balances reported by the carriers in Account 701, and that this line does not, therefore, include any investment in proprietary companies, or leased lines. The statement shows on line 8 that the average miles of road operated has increased 14.04 per cent; on line 6, that the average investment in road and equipment, material, supplies and cash, has increased 37.14 per cent; that tax accruals have increased 78.55 per cent; that passenger revenue has decreased 35.39 per cent, but despite these facts and despite the further fact that the year 1930 was a year of national depression, net operating revenues increased 56.63 per cent and net railway operating income increased 72.08 per cent compared to 1921 (Tes. p. 1375). My next exhibit, No. 102, is a statement showing the property investment and operating income account of the Atlantic Coast Line Railroad Company for the calendar [fol. 1246] years 1921 to 1930, inclusive, and in connection with this statement I wish to say that the amounts shown opposite item 2, Investment in Road and Equipment, comprehend only the balances reported by the carriers in Account 701; that this line does not, therefore, include any investment in proprietary companies or leased lines; and that, with the exception of the amounts reported on lines 2, 4 and 6, it contains identically the same information as is reflected under Defendants' Exhibit No. 78, items 1 to 29 for the years 1926 to 1930, inclusive. I prepared a statement showing the property investment and operating income account of the Atlantic Coast Line Railroad for a ten year period for identically the same reasons which I explained in connection with the statement covering the ten year period of the Atlantic Coast Line Railroad Company, Seaboard Air Line Railway Company and Florida East Coast Railway Company. Lines 2 and 8, columns (b), (g) and (k), respectively (Tes. p. 1376), show that the investment in road and equipment increased from December 31, 1921, to December 31, 1926, over $55,000,000.00, whereas the miles of road operated increased but 38.04 miles and that between December 31, 1926 and December 31, 1930, the investment in road and equipment increased approximately $12,600,000.00 against a miles of road operated increase of 225.89 miles. State- in another manner—during the five.

years ended December 31, 1926, the miles of road operated increased 38.04 miles against a property investment increase of $55,000,000.00, or almost $1,450,000.00 per mile, whereas, during the next four years there was an increase of 225.89 miles in the miles of road operated and an in- [fol. 1247] crease of $12,600,000.00 in investment, or an increase of slightly more than $55,000.00 per mile of road operated. These comparisons, however, simply go to show how unreliable the factor "miles of road operated" is, because between December 31, 1921, and December 31, 1926, the Atlantic Coast Line Railroad Company put in operation 333.56 miles of second main line track and this mileage is entirely ignored in every comparison of miles of road operated. I speak of mileage in the system (Tes. p. 1377). The statement shows that the average miles of road operated increased 5.39 per cent; that the investment increased 29.46 per cent; that tax accruals increased 79.67 per cent; that operating revenues decreased 5.56 per cent; that operating expenses decreased 14.34 per cent and that despite the decreases in operating revenues and operating expenses, the railway operating income increased 39.41 per cent and net railway operating income increased 43.69 per cent. The reduction in total revenue was brought about entirely by the reduction in the passenger revenue and this reduction in passenger revenue was largely intrastate business as will be shown by a subsequent exhibit. The reduction of 37.22 per cent in the passenger revenue is more than offset by a reduction of 14.34 per cent in the operating expenses and this fact might naturally lead to the conclusion that the reduction in the passenger revenue was largely offset by a reduction in the passenger expenses; however, an analysis of the 1921 and 1930 passenger locomotive miles and passenger car miles indicates to my mind that the reduction was made primarily in the freight service. I make this statement because there has been a reduction of less than 1 per cent in the locomotive miles assignable to [fol. 1248] passenger service in 1930 as compared to 1921, and there has been an increase of over 17 per cent in the passenger car miles in (Tes. p. 1378) 1930 as compared to 1921, while at the same time there has been a decease of about 36 per cent in the passengers carried one mile in 1930 as compared to 1921. The increases and decreases reflected on this exhibit, when contrasted with the increases

and decreases reflected on defendant's Exhibit No. 78, show the danger and fallacy of comparing the operating income accounts obtaining during an abnormal period with those of a subnormal period. This exhibit also shows, by comparing the returns under column (b) for the year 1921, with the returns under column (j), for the year 1929, that the additional investment in road and equipment appears to have been warranted and this is particularly true when consideration is given to the reduction in rates which have been made during the period; the increased automobile, truck and bus competition which has arisen since 1921, and the increased competition which the Atlantic Coast Line has had with boat lines and other carriers, particularly with respect to Florida traffic.

The spread between 1921 and 1929 would, in my opinion have been still greater were it not for the fact that the Seaboard Air Line Railway Company, since 1921, has increased it mileage very considerably and certain large shipping points, which were formerly local to the Atlantic Coast Line and to the Florida East Coast Railroad, are now competitive points and the Seaboard Air Line enjoys a portion of the (Tes. p. 1379) traffic. That the year 1926 used by the defendant in its Exhibit No. 78 for comparative [fol. 1249] purposes was an abnormal year, appears to be warranted by the returns made under columns (f) and (g). Line 9, Total Operating Revenues, and line 15, Total Operating Expenses, show that the year 1926 was the year of both the heaviest earnings and heaviest operating expenses, but despite this fact the net operating revenues and the net railway operating income for the year 1925 were approximately $2,600,000.00 greater than for the year 1926. In addition, as will be shown by subsequent exhibits, the Atlantic Coast Line Railroad Company handled in the year 1926, not only for the system but also in the State of Florida, the largest number of revenue tons that it handled during the ten year period and also handled the greatest number of tons one mile per mile of main line track operated. My next exhibit 103 is a statement of the property investment and operating revenues in the State of Florida for the ten years ended December 31, 1930, the operating revenues being shown separately for the intrastate and interstate business. This statement shows that the 1930 operating revenues assigned to Florida are $619,-

434.36, or 3.65 per cent less than they were in 1921 and that the passenger revenues are $2,167,840.24, or 52.72 per cent less than in 1921. The (Tes. p. 1380) statement further shows that if the $2,167,840.24, decrease in total passenger revenues, $1,940,567.41 was a decrease in the intrastate passenger revenue. This statement further shows that the investment in road and equipment increased $28,595,480.00, or 42.38 per cent between December 31, 1921, and December 31, 1930. With respect to the assignment of interstate operating revenues. According to the sworn report of the carrier to the Florida Railroad Commission, the [fol. 1250] amount of interstate revenue inuring to the Atlantic Coast Line is apportioned to the State of Florida in proportion to the mileage traversed in the State of Florida, to the total mileage traversed over the lines of the Atlantic Coast Line Railroad. This method of apportioning revenues to the State of Florida assigns less revenue to the Florida operations than should be assigned thereto and ignores entirely the manner in which the rates under which the traffic moves are prescribed and applied. In its decision in Docket 13494, Southern Class Rates, the Interstate Commerce Commission prescribed higher rates on class traffic moving to and from points South of the Jacksonville River Junction line of the Seaboard Air Line than on class traffic moving to and from other sections of the South. The higher rates prescribed are (Tes. p. 1381) generally referred to as arbitraries and represent 15 per cent of the standard scale rate applicable to the mileage south of the Jacksonville River Junction line of the Seaboard. Instead of assigning the revenues produced by this 15 per cent arbitrary to the operations in the State of Florida, the carrier assigns such revenue to states in proportion to the mileage traversed in each state. Since the decision in 13494, certain commodities formerly moving under commodity rates, now move under class rates, or percentages of class rates, and as a result thereof the 15 per cent arbitrary applicable to class rates applies to such commodities also. In addition, the Interstate Commerce Commission has prescribed specific commodity rates where the arbitrary South of the dead line for certain distances runs as high as 40 per cent of the standard scale rate for a like [fol. 1251] distance (cement). Other commodity rates to and from Peninsular Florida are built upon a Jacksonville

combination, which combination comprehends the old water depressed rate to Jacksonville plus the full local rate beyond and these rates are uniformly in effect in excess of the 15 per cent arbitrary basis. The Florida Railroad Commission contends, therefore, that every exhibition of the total operating revenues in the State of Florida on the Atlantic Coast Line is incorrect and is less than it should be because of the improper method employed by the Atlantic Coast Line Railroad Company in apportioning (Tes. p. 1382) interstate revenues to states. This criticism applies equally to defendant's exhibits 79 and 81. On this exhibit in column (j) 1929, the property investment in road and equipment was $94,709,630.37. The actual assessed value of the Atlantic Coast Line Railroad Company for tax purposes was in that year in round figures $22,681,000. That amount, I believe, with the exception of personal property, was on a 50 per cent valuation basis and the personal property was assessed around a 40 per cent valuation basis. The next exhibit, 104, is a comparative statement of the revenue tons by general commodities from 1921 to 1930, inclusive, both for the Atlantic Coast Line system and State of Florida. This statement shows that for each of the years from 1921 to 1930, inclusive, the tons handled in the State of Florida represented over 40 per cent of the total tons handled on the system, or expressed in another way—over 40 per cent of (Tes. p. 1383) the tons handled on the Atlantic Coast Line Railroad were handled to, from or within the State of Florida, and since a large portion of the interstate tonnage to and from Florida is long haul tonnage, it is, in my opinion, the most desirable traffic which the Atlantic Coast Line has.

[fol. 1252] This statement furth shows that between 1921 and 1930, the revenue tons handled on the system increased 3,604,217 tons as against an increase of 2,204,461 tons in Florida, which indicates that 60 per cent of the increase in tons handled was Florida traffic. The statement shows also that, with the exception of the years 1922 and 1923, the tons handled in the State of Florida increased as compared to the tons handled in 1921 in greater proportion than did the system as a whole. In conclusion, columns (f) and (g) of this statement show without question of doubt, that the years 1925 and 1926 were abnormal not only with respect to Florida operations, but also for

the system as a whole. My next exhibit, No. 105, is a statement reflecting the freight revenues of the system and of the State of Florida and the freight interstate and intrastate revenue in Florida for the years 1921 to 1930, inclusive, and showing the increases in amount and in percentage as compared to 1921 (Tes. p. 1384). Although the method employed by the Atlantic Coast Line Railroad in assigning interstate revenues to states assigns less to the Florida operations than should be assigned, for the reasons which I have heretofore given, and despite the fact that the decision of the Interstate Commerce Commission in Docket 13494 reduced all intrastate rates in Florida on traffic moving from third class to class D and also had the effect of reducing practically all class rates on interstate traffic formerly made on a Jacksonville combination. This statement shows that the freight revenue assigned to Florida operations, with the exception of the year 1922, has increased in greater percentage than has the system freight revenue as a whole. It also shows that the Florida interstate traffic, with the exceptions of the years 1922, 1927 and 1928, and the Florida intrastate traffic, with the exceptions of the years 1923 and 1929, increased at a greater percentage compared to 1921 than did the system revenues. This statement also shows, I believe, the importance of the [fol. 1253] Florida traffic to the system and particularly so when consideration is given to the fact that no small portion of the Florida revenue is long haul and perishable traffic. My next exhibit, No. 106, is a statement showing the total intrastate and interstate tons of revenue freight handled on the system and within the State of Florida for the calendar (Tes. p. 1385) years 1926 to 1930, inclusive, and the percentages which the different tonnages bear to the system, total Florida and total intrastate and interstate tonnage. It also shows for the years subsequent to 1926 the decrease in tons handled and the percentage decrease of each kind of traffic, and the system tonnage of 1926. In explanation of this statement I wish to say that wherever 100 per cent is used under a column, the tonnage immediately above the 100 per cent is used as the divisor and that the percentages shown under the columns opposite the 100 per cent reflect the relationship which the amounts shown under those columns bear to the column on which the 100 per cent is reflected. This exhibit shows under

column (c) that the tons handled to, from and within the State of Florida during the five year period represented from 42.26 per cent in 1928 to 55.91 per cent in 1926 of the total system tonnage; under column (e) it shows that the Florida intrastate tonnage represented from 20.71 per cent in 1930 to 29.68 per cent in 1926 of the system tons handled, and under column (g) it shows that the interstate tonnage to and from Florida represented from 19.27 per cent in 1927 to 26.63 per cent in 1926 of the total system tonnage. This statement further shows under column (e) that the intrastate tonnage handled within the State of (Tes. p. 1386) Florida represented from 27.82 per cent in 1930 to 61.38 per cent in 1926, of the total system intrastate tonnage handled; and it shows under column (g) that the interstate tonnage handled to and from Florida represented from 37.19 per cent to 50.08 per cent of the to-[fol. 1254] tal interstate tonnage handled on the system. This statement shows, I believe, beyond a question of doubt, the value of the Florida traffic to the Atlantic Coast Line Railroad and further shows that the Florida traffic is the backbone of the Atlantic Coast Line tonnage. The next exhibit, No. 107, is a comparative statement of the revenue tons of freight handled on the system as a whole and in the various states, separated as between interstate and intrastate tons. Being of the opinion that the Florida interstate traffic was the most desirable traffic handled by the Atlantic Coast Line Railroad, but not having the respective ton miles made by the interstate traffic originating and terminating in the State of Florida as compared to the ton miles of all other interstate freight, I prepared this statement so as to show, in a general way, the comparative value of the Florida interstate traffic to all other interstate traffic handled by the Atlantic (Tes. p. 1387) Coast Line Railroad Company. This statement is not actual, but in my opinion, it understates rather than overstates the conditions, because, while I have calculated the statement on the assumption that the interstate traffic to and from Florida is only handled on an average in three states, I believe that if the facts were available, the interstate tonnage to and from Florida would be handled on an average in almost four states. It shows, however, that the Florida traffic constitutes the larges- column of the long haul trans-state traffic handled by the Coast Line.

Item 7 is obtained by multiplying the interstate tonnage in Florida by 3. In other words, it is on the assumption that all Florida tonnage, on the average, is handled in [fol. 1255] at least three states. If that assumption is correct, it is used to determine in how many states the balance of the interstate traffic that does not reach Florida can be handled. I do not mind admitting it is not actual. It is an estimate, but we believe underestimated (Tes. p. 1388). Item 7 is item 5 multiplied by 3. My next exhibit, No. 108, is a statement showing traffic density statistics of the system, of the State of Florida, and of the system excluding the State of Florida for the calendar years 1921 to 1930, inclusive, for the Atlantic Coast Line Railroad Company. This statement has been prepared in identically the same manner as defendant's exhibit No. 83, excepting that I have made my calculations upon the average miles of main track operated including second main track at close of the year, instead of upon average miles of road operated. The defendant, in its Exhibit No. 83, was comparing miles of road operated instead of miles of main track in Florida as compared to that of the system. Since Mr. Lamb used the year 1929 for illustrative purposes in his testimony, I will do likewise, although the comparisons for that year show it to be the poorest year, on a comparative basis, of any of the years since 1926. While column (h) shows that 37.4 per cent of the system main track operated was in Florida, my exhibit 106, column (c), shows that 45.1 per cent of the system tonnage handled was handled to, from and within the State of Florida; while column (i) shows that but 25.1 per cent of the revenue ton miles of the system were made in (Tes. p. 1389) Florida, a subsequent exhibit which I will file will show that but 21.25 per cent of the system loaded freight car [fol. 1256] miles and but 22.43 per cent of the system loaded and empty freight car miles were made in the State of Florida; and while column (j) shows that the Florida tons one mile per mile of main track operated were but 67 per cent of the system average tons one mile per mile of road operated, my exhibit 106, column (e), shows that 50.02 per cent of the system intrastate tonnage was handled in Florida and column (g) shows that 41.31 per cent of the system interstate tonnage was handled to and from Florida. While this statement shows, from a traffic density

standpoint, that the operations in the State of Florida are below the operations of the system as a whole, when considered in connection with other operating statistics, the disparity in traffic density is to a great extent offset and particularly so when the amount of traffic originating and terminating and originating or terminating within the State are considered. The next exhibit, 109, which I desire to offer is a statement showing by primary accounts the total, the freight, the eliminated amounts, and the amounts treated as haulage expenses by witness Lamb, according to his testimony and Exhibit No. 84 (Tes. p. 1390). This exhibit was prepared in detail in order that the record might show the identical accounts and amounts comprehended in those expenses which were eliminated from consideration in determining the haulage expenses and also to show, by accounts, the amounts comprehended in the expenses which were designated and treated by the defendant's witness as haulage expenses. This exhibit was also prepared in order to show that the basis used by defendant's witness in his elimination of the so-called non-haulage expenses is not in accordance with the formula [fol. 1257] used by Dr. Lorenz in Docket 17000; which formula his superior officer, Comptroller W. D. McCaig of the Atlantic Coast Line Railroad Company, adopted in Docket 17936, record 1460, and which formula was also approved by the Interstate Commerce Commission in its opinion and order in Docket 17936. This exhibit will be used primarily in connection with any criticism of defendant's Exhibit No. 84. The next exhibit, 110, is a statement of the train miles, locomotive miles and car miles, separated as between freight and passenger for the system and for the State of Florida, showing the percentage which the Florida mileages bear to the system mileages, for the calendar year 1929 (Tes. p. 1391). This exhibit shows under column (i), opposite items 17 and 41, that the freight train miles and freight locomotive miles assignable to Florida operations represent but 30.63 per cent and 30.92 per cent, respectively, of the system freight train and freight locomotive mileages, and it further shows under column (i) that the total freight, loaded and empty, car miles made in the State of Florida, represent but 22.43 per cent of the total loaded and empty freight car miles of the system. In other words, this exhibit in connection with my Exhibit No. 108 shows that while 37.04 per cent of the mileage of main

track operated is in Florida, that less than 31 per cent of the freight train miles and freight locomotive miles are made in Florida, and that while 25.1 per cent of the revenue ton miles are handled in Florida, but 22.43 per cent of the loaded and empty freight car miles are handled in the State of Florida. This statement also was prepared to show that the percentage of main track miles operated, and revenue ton miles handled are misleading and unreliable [fol. 1258] when comparing the results of operations upon the different divisions, or within the different states, of a line of railroad. Column (f) of this statement also shows that for the State of Florida, as a whole, the Atlantic Coast Line Railroad handled 31.69 freight cars per freight train mile. Since the evidence in this case (Tes. p. 1392) shows that the log train handled from 40 to 45 cars per train, it must be obvious that the average cost obtaining with respect to 31.69 cars per train can not be applicable to the log movement. This completes the exhibits which I have to offer, but I have certain testimony to offer with respect to defendant's exhibits.

Examiner Hoy: Exhibits 101 to 110 will be received.

By Mr. Turnbull:

Q. Turn now to defendant's Exhibit No. 78 and make what comments you desire to make with respect to this exhibit.

A. In so far as the statement itself is concerned, from the check which I have had made of it, it appears to be mathematically accurate. I do not believe, however, that a comparison of the income accounts of the years 1926 to 1930 is of any practical value to the Commission because in 1926 the carrier earned the largest revenue in its entire history, whereas 1930 was a year of national depression and the Atlantic (Tes. p. 1393) Coast Line Railroad's total operating revenues were the smallest they have been since 1921. The comparison of the operating income accounts of 1926 with those of 1930 is a comparison of the incomes during a period of abnormality with those of a period of subnormality and should not therefore, be given much weight. Attention is also directed to the fact that, although the operating expenses of 1930 are but little over 70 per cent of the operating expenses of 1926, the balance in the [fol. 1259] cash account as of December 31, 1930, was $5,-

438,418.00 greater than in 1926, or about 64 per cent. Lines 3 and 5 of this exhibit show that the material and supplies and cash balances in 1930 exceeded the material and supplies and cash balances in 1926 by approximately $3,440,000 or approximately 20 per cent. In addition to the above, in consequence of the fact that witness for the defendant has used the tentative valuation of the Atlantic Coast Line Railroad properties in the State of Florida as of July 1, 1917, brought up to date, in calculating the return upon investment in the State of Florida, and in consequence of the further fact that the witness has compared the returns on investment in the State of Florida with the returns on investment for the system, it would appear that in order to have a proper comparison he should have used the tentative valuation of the Atlantic Coast Line system as of July 1, 1917, brought up to date, instead of investment in road (Tes. p. 1394) and equipment. With respect to the operating revenues reflected on Exhibit No. 79, I have previously pointed out the inaccurate and unequitable basis employed by the Atlantic Coast Line Railroad in its assignment of interstate revenues to the State of Florida. The expenses reflected on this exhibit have been assigned to the State of Florida on the basis of the percentage of Florida revenue to total revenue; that is, Florida is assigned the same percentage of system expenses that the Florida revenue bears to the system revenue. The use of revenue as a factor for assigning expenses is improper because every inequality in the rates producing the revenue is further perpetuated by the use of the revenue itself as [fol. 1260] a factor for apportionment. This basis was condemned in the Minnesota rate case decision. To show how utterly unreliable the basis is, using the year 1926 as illustrative: Had the Florida revenues been twice what they were, the expenses assigned to Florida would have been twice what they were reported on Exhibit No. 79. As a further illustration, the basis employed by the Atlantic Coast Line in effect assigns as expenses to the State of Florida, the system operating ratio of the revenue assigned to the State of Florida in connection with the transportation of each person or unit of property within the State of Florida (Tes. p. 1395). For example, for each $100 of revenue assigned or allocated to Florida operations in 1930 there would be assigned to Florida expenses $78.84, this

without regard to the reasonableness of the rate, the cost of the service or the value of the property utilized in performing the service. For the above reasons it is perfectly obvious that the data reflected on lines 9 to 23, inclusive, are unreliable and inaccurate and do not reflect the facts with respect to Florida operations, and that the rate of return on the investment in Florida is, therefore, inaccurate and unreliable.

Q. What have you to say with respect to Mr. Lamb's conclusion that the cost on the third division, which operates exclusively in the State of Florida, is considerably higher per unit than the cost on the first and second divisions operating North of Jacksonville?

A. Mr. Lamb's conclusion, according to his testimony was predicated upon the comparative out of pocket loaded and empty car mile and gross ton mile costs obtaining on [fol. 1261] the third division as compared to those obtaining on the other two divisions. While it is true that the out of pocket expenses used by Mr. Lamb do not increase or decrease in proportion to the train loading or density of traffic on the different divisions of a railroad, and while it is also true that as the train load increases the unit out of pocket costs decrease, the same condition does not obtain with respect to other expenses (Tes. p. 1396) and this is particularly true with respect to all maintenance expenses. The Interstate Commerce Commission in Finance Docket No. 1606 in final settlement under Section 209, 70 Interstate Commerce Commission, 711, 741 developed a formula for adjusting maintenance allowances for differences in the use of property between the so-called test and guarantee periods and found that upon the average only one-third of the expenses for maintenance of way and structures varied with the use of the property and it also found that 80 per cent of the expenses of maintaining steam locomotives varied with use measured by the ton miles hauled and had 60 per cent of the maintenance expenses of freight train cars varied according to use as measured by the car miles per car day. In addition to the above, it must be perfectly obvious to anyone familiar with railroad operations that neither the traffic, nor general block of expenses increase in proportion to the density of traffic, or are materially effected thereby. With respect to transportation expenses, density of traffic does not materially

increase, either out of pocket expenses or the yard expenses, except when it requires additional yard crews to handle the increased business. In all my experience, however, covering a period of over 20 years, this is the first instance in which I ever saw anyone predicate costs upon the comparative out of pocket costs obtaining either on [fol. 1262] different divisions or with respect to different commodities (Tes. p. 1397).

To illustrate how unsound the basis advocated by Witness Lamb is, assume that you have two trains of either an equal number of gross tons or an equal number of loaded and empty cars operating between the same terminals; one a through freight train and the other a local freight train upon which a 10 per cent higher wage scale obtains than upon the through freight train. To contend, simply because the out of pocket costs of the local train are in excess of the out of pocket costs of the through train, that the total loaded and empty car mile costs of operating the two trains between identical terminals vary in proportion to the out of pocket costs, appears to me to be fundamentally unsound. To contend that the unit out of pocket costs obtaining with respect to different operations reflects the variance in total costs of such operations is tantamount to saying that all costs vary in the exact proportion that out of pocket costs vary. Such a contention is so absolutely contrary to all cost theories as to not warrant serious consideration by this Commission. I am familiar with the methods employed by Mr. Lamb in ascertaining his cost of handling logs in the State of Florida, having analyzed the methods employed by him in arriving at his costs. (Tes. p. 1398). The cost studies introduced by Witness Lamb should be given but little, if any, consideration or weight in measuring the reasonableness of the Cummer scale of log rates because they are computed upon system and division averages and not upon the expenses and the factors pertaining to that portion of the road over which the logs move; because the studies are based upon assumptions [fol. 1263] not warranted by the evidence of record in this case, and because all of the expenses have been assigned either upon the gross ton mile or upon the loaded and empty car mile basis. I say that the cost studies are computed upon system division averages and not upon the factors pertaining to that portion of the road over which

the logs move, because Mr. Lamb has simply applied to the gross ton miles and to the loaded and empty car miles, applicable to specific movements of logs, an average unit cost ascertained by expanding the third division average out of pocket unit cost by the percentage relationship which the out of pocket cost of the system bears to the total freight expenses and the total freight haulage expenses, respectively, of the system. He has in no instance ascertained the expenses applicable to either that portion of the line over which the logs are transported (Tes. p. 1399), or to the trains in which the logs are transported. Considering first the total freight expenses, Mr. Lamb's studies are based upon assumptions not warranted by the evidence of record in this case because, by first ascertaining the unit gross ton ton mile and loaded and empty car mile out of pocket costs obtaining on the third district, and second, by expanding that cost by the application of the percentage relationship between system out of pocket and total freight expenses, the witness has assumed, first, that the total freight operating expenses are properly assignable to commodities upon either the gross ton mile or the loaded and empty car miles basis; second, that there is a definite and fixed relationship between the out of pocket expenses and the total freight operating expenses; and third, that the aver-[fol. 1264] age unit costs applicable to the third district are applicable to the movement of logs. With respect to the assumption that the total freight operating expenses are properly assignable to commodities upon either the gross ton mile or loaded and empty car miles basis, such an assumption is, in my opinion, unwarranted and indefensible. As a general proposition there are three cost elements in connection with the transportation of commodities, i. e., terminal cost, line haul transportation cost and loss and damage cost, and in addition thereto, there is, of course (Tes. p. 1400), to be provided a return upon investment. It must be perfectly obvious that neither loss and damage, nor terminal expenses is properly assignable upon either the gross ton mile or the loaded and empty car miles bases. In addition, before attempting to determine the amount of terminal expense applicable to car load traffic, it is customary to reduce the total freight terminal expenses by eliminating therefrom the station platform expenses

of handling L. C. L. freight and the excess station clerical expense of L. C. L. freight over C. L. Freight. The platform and excess clerical expense of handling L. C. L. freight, according to the terminal studies made in connection with Docket 17,000, part 2, Western Trunk Line Class Rates, was $4.222 per ton. In addition to the above, neither the gross ton mile, nor the loaded and empty car mile basis assigns to commodities the expense applicable thereto because of the extraordinary service which certain commodities require. For example, neither the gross ton mile basis, nor the loaded and empty car mile basis assigns to L. C. L. freight or to the transportation of perishables the amount of expenses which the extraordinary service fur- [fol. 1265] nished to this class of freight warrants. L. C. L. freight is generally handled in local or way freight trains upon which the wage scales paid are approximately 10 per cent higher than for other trains. In addition, the trains are (Tes. p. 1401) lighter loaded; considerable time is spent in intermediate station switching and loading and unloading and the costs in connection there with are considerably higher both per car and per train mile than are the costs of all traffic. Perishable traffic is more expensive to handle than all traffic in the State of Florida because the territory in which the perishable traffic originates extends over a comparatively large area and embraces a large number of branch lines of railroads; the volume of perishable traffic, when considered with respect to the seasonal movement, results in a comparatively small volume per day. This traffic also requires the storage, cleaning and distribution of cars twice daily, and, when handled under refrigeration, requires the additional service of switching cars to and from the icing plant, both before and after loading. For the reasons heretofore given and because perishable traffic must be expedited, it requires a pick-up or an assembly service which is not furnished in connection with the transportation of any other traffic and as a result thereof, a large number of additional trains of small tonnage are required to transport the perishable traffic to the assembly point, from which it moves forward to Northern and Western destinations in through trains. Perishable traffic cannot be held over until sufficient tonnage is available to give a locomotive its full tonnage rating, but must be handled expeditiously in order that it may reach its

market within a (Tes. p. 1402) limited time. In addition to the above, the perishable movement requires a greater [fol. 1266] amount of switching per car; is handled in a heavier type of car; in trains of lighter tonnage, and with a fewer number of cars per train than is the case with other traffic, and particularly dead freight, and enjoys diversion privileges not extended to other traffic. It is, therefore, perfectly obvious that the assignment of total freight operating expenses upon either the gross ton mile or the loaded and empty car mile basis is inaccurate and assigns too great an expense to car-load traffic, and particularly to the log traffic. With respect to the out of pocket expenses representing a definite and fixed percentage relationship to total freight expenses there is, in my opinion, no definite or fixed percentage relationship between the so-called out of pocket expenses and the total freight operating expenses and further, the results of any calculation based upon such a relationship must be unreliable. The reasons that there is no fixed relationship between out of pocket expenses and total freight expenses are that the out of pocket freight expenses depend first upon the number of trains operated, second, upon the time consumed by trains between terminals resulting in over-time, and are not necessarily influenced by gross weight (Tes. p. 1403). On the other hand, according to the findings of this Commission in Finance Docket 1606, 33-⅓ per cent of the maintenance of way and structures expenses and 80 per cent of the steam locomotive repairs vary according to the gross weight and 60 per cent of the freight train car repairs vary according to the freight car miles. The remaining expenses, with the exception of yard transportation and station employees, are largely fixed expenses which do not fluctuate according to the volume of business handled but represent expenses which are incurred regardless of the volume of business. [fol. 1267] Yard and station expenses fluctuate to a certain extent, not proportionately to the volume of business. It, therefore, is obvious to me that there can be no fixed relationship between the out of pocket freight expenses and total freight expenses, because the out of pocket freight expenses are influenced primarily by the number of trains rather than by the size of the trains operated, whereas, those expenses which fluctuate with the volume of business are influenced primarily by gross weight and not by the

trains operated. To state it in another manner, the train loading or the number of cars per train might very well be increased 25 per cent without increasing the out of pocket expenses materially. On the other hand, an increase of 25 per cent in the total volume of business handled would automatically increase those expenses varying with gross weight 25 per cent. If, however (Tes. p. 1404), there is any relationship between the out of pocket expenses and the total freight expenses, it must be obvious that, in a State like Florida where the traffic density is light, due to the large number of branch lines and being scattered over a wide area, thereby requiring the operation of a larger number of trains to handle the same volume of business, the out of pocket expense would represent a much greater proportion of the total freight expense than they do on the system as a whole, where the train loading is heavier and where fewer trains are operated to handle the same volume of business. It, therefore, appears to me that even if the witness for the defendant is correct in his theory he is wrong in his application of the theory because he ignores the conditions which cause the relative amounts of out of pocket expenses on the system and in the State of Florida. [fol. 1268] The well known adage "the proof of the pudding is in the eating of it" applies to the application of formulae with equal force. Witness Lamb, by applying to the freight out of pocket expenses of the third division, the percentage which the system freight out of pocket expenses bear to the total freight out of pocket expenses in effect assigns to the third division that percentage of the total freight operating expenses of the system which the freight out of pocket expenses on the third division bear to the freight out of pocket expenses of the system (Tes. p. 1405). According to his Exhibit No. 84, the system out of pocket expenses were $6,920,684.00 and according to his testimony, record 1101, the freight out of pocket expenses of the third division were $2,059,610.66, or 29.76 per cent of the system expenses. Because the record only reflects the freight out of pocket expenses, the loaded and empty car miles and the gross ton miles of the third division, we can only test the accuracy of the defendant's assignment of system expenses to the third division by calculating what percentage of the freight train car repairs, depreciation and retirement should be apportioned to that division upon the loaded and

empty car mile basis. My Exhibit No. 110, column (c), shows the system loaded and empty car miles for the calendar year 1929 to have been 347,071,175 and Witness Lamb in his testimony, record 1101, testified that the loaded and empty car miles of the third division were 69,775,673, or 20.10 per cent of the system loaded and empty freight car miles. It is, therefore, obvious that Witness Lamb should have assigned but 20.10 per cent of those expenses assignable upon the freight car mileage basis instead of assign-
[fol. 1269] ing 39.76 per cent. 29.76 per cent is 48.06 per cent greater than 20.10 per cent and it appears, therefore, that his formulae has assigned to the third division 48.06 per cent more than should have been assigned for such expenses as are properly apportionable upon the car (Tes. p. 1406) mile basis. In consequence of the fact that the evidence shows that the mill operator pays the greater portion of the repairs with respect to log cars, it must be perfectly obvious that the formula used by Mr. Lamb is arbitrary and wholly unreliable.

Q. What have you to say with respect to the assumption of the witness that the unit costs of the third district are applicable to the movement of logs intrastate in Florida?

A. In consequence of the fact that the train operations in the State of Florida are primarily an assembly service, due to the large area in which the carrier conducts its operations and the large number of branch lines on which the perishable traffic is handled; because the number of cars per train mile in connection with the entire operation is 20 per cent less than is the case with respect to the operations of a log train; and also because the log trains are about 25 per cent more heavily loaded than are all freight trains operating in Florida, the cost of handling logs should be less than the cost of handling all commodities in the State of Florida. Furthermore, the average cost comprehends not only the cost of handling L. C. L. traffic, but also the cost of furnishing all special service in connection with the movement of perishables, whereas the log movement is wholly carload and largely train load and receives no special services whatever. It is a well known fact that commodities handled in train load (1407) lots can [fol. 1270] be handled at considerably less expenses than can all traffic and that commodities handled in carload lots can be handled at less expense than L. C. L. freight.

In addition thereto, the evidence shows that the car repairs in connection with the equipment used in handling the log traffic is very largely borne by the mill operator and not by the carrier as is the case with practically all other traffic. In conclusion, the testimony shows that the only switching involved in connection with the log movement is the switching at Palatka, at which point two switching services are performed per day in the delivery of 40 loads to and from the mill, or at an average of about 20 cars per switching movement. This would result in a cost for switching considerably less than is the cost with respect to the switching in connection with all other traffic, and particularly with respect to the switching of L. C. L., team track traffic and private industrial delivery. For the above reasons I am perfectly satisfied that the average unit cost obtaining on the third district in Florida is not applicable to the movement of logs. With respect to the freight haulage expenses as found by Witness Lamb and as set forth on his Exhibit No. 84 and my Exhibt 109, Mr. Lamb has ascertained what he terms freight haulage expenses by deducting from the total freight expenses all of the (Tes. p. 1408) freight expenses allocated and assigned to yard freight service and the expenses of certain primary accounts which, due to a lack of time, he was not able to apportion on proper factors to the yard and haulage services. The methods employed by Witness Lamb in ascertaining the freight expenses applicable to haulage is not in accord with the generally accepted basis used in [fol. 1271] the division of operating expenses between haulage and yard expenses nor is it in accord with the basis advocated by Dr, Lorenz, Director of the Bureau of Statistics of the Interstate Commerce Commission, in Docket 17000, Part 7, Grain and Grain Products, which basis was adopted (Record 1460) by Mr. McCaig, Comptroller of the Atlantic Coast Line Railroad Company, in Docket 17936, and was approved by the Commission in its report and order in connection with that case. The generally accepted basis for the division of freight operating expenses between haulage and yard services is upon the ratios that the road and yard direct and apportioned maintenance of way and structures and transportation expenses, respectively bear to the total of the road and yard direct and apportioned maintenance of way and structures

and transportation expenses. Under this basis Accounts 390 and 391, Operating Joint Yards and Terminals Debit and Credit, and Accounts 412 and 413, Operating Joint Tracks and Facilities, Debit and Credit, are assigned direct to Yard and Haulage services respectively (Tes. p. 1409). Using the generally accepted basis of assigning total freight expenses to Road and Yard service, respectively, I find the yard proportion of total freight expenses to be $10,764,146.94 as against $4,550,039.00, deducted by Witness Lamb for yard expenses. This one error in ascertaining the amount of expense assignable to yard service, discredits the ascertainment of haulage expenses as found. In addition to the above, all of the expenses assigned to the haulage service are not properly assignable upon either the gross ton mile or loaded and empty car [fol. 1272] mile basis; certain portions of the direct out of pocket expenses are assignable to L. C. L. traffic; some of the out of pocket expenses is properly assignable to extraordinary services in connection with both the distribution of the empty and assembly of loaded cars of perishables and some of such expenses are properly assignable to the refrigeration service and to the diversion of traffic. For the reasons just given, I am of the opinion that the separation of total freight expenses between haulage and yard services is incomplete and inaccurate; that the expenses applicable only to L. C. L. traffic and to furnishing extraordinary service should be deducted from the haulage expenses before calculating the average carload unit cost; and that the average system or divisional carload costs are seldom, if ever, applicable to the transportation of a commodity moving largely in train loads (Tes. p. 1410). As to how did Mr. Lamb ascertain the freight haulage expenses applicable to the third operating division: In effect, Mr. Lamb found the freight haulage expenses of the third division of the Atlantic Coast Line by dividing the freight out of pocket expenses of the third division by the percentage which the out of pocket expenses of the system is of the total haulage expenses of the system. As to the method by Mr. Lamb in ascertaining the freight haulage expenses applicable to the third division of the Atlantic Coast Line Railroad Company: In consequence of the fact that Mr. Lamb has used the ratio of system out of pocket expenses in ascertaining the

third division total freight and total freight haulage expenses, respectively, he has, to all intents and purposes, assumed that, not only the total freight expenses, but also the total freight haulage and total freight yard service [fol. 1273] expenses vary in the direct proportion that out of pocket freight expenses vary, and that the freight yard service expenses and the freight haulage expenses of the third division represent the same percentage of total freight expenses on that division that the system freight yard and haulage expenses bear to the system total freight expenses (Tes. p. 1411). In my opinion, neither the total freight operating expenses, nor the total freight haulage expenses vary according to the out of pocket freight expenses. At one time while I was connected with the Great Northern Railroad Company, one of my duties was to analyze and explain the differences in the accounts of the expenses charged to the different primary accounts each month as compared with the previous month of the same year and as compared to the corresponding month of the previous year. I found that the differences, with the exception of the direct train expenses, which, in this case, are referred to as out of pocket expenses, were largely due to either a change in wage scales, a change in the number of employees, changes in material prices, authority to increase the maintenance budget or to undertake rearrangements of facilities and to an increase in the volume of business. This latter item invariably affected the yard and the station accounts more than any other accounts with the possible exception of the out of pocket expenses. I was never able to explain the differences in total expenses by a comparison of the differences in the out of pocket expenses. In fact, out of pocket expenses would decrease during the dull season and maintenance expenses would increase. On the other (Tes. p. 1412) hand, during the busy season, out of pocket and yard expenses would increase and maintenance expenses would decrease. [fol. 1274] Because the total freight operating expenses and the total freight haulage expenses are occasioned by so many things other than the freight train mileage operated, in my opinion, the out of pocket expenses are not a reliable factor to measure such expenses. In addition to the above, the cost studies which I have made have convinced me that system averages in connection with the transportation of

specific commodities and between specific points is not only unreliable but is entirely theoretical. I say this because different classes of freight are carried in different volumes upon the different divisions of the same railroad; certain classes of freight are carried in train load lots on one division which are only carried in car-load lots on other divisions. The practice of handling trains varies even upon the different divisions of the same carrier; certain classes of freight will be moved by local trains, others by dead freight trains and still others by fast and manifest trains; gathering service may be performed by train crews, but generally by yard crews. The tonnage rating of the same class of a locomotive varies according to the topography of the country, the class of freight being handled, weather conditions and the freight available for movement. All of these things affect the relationship of out of pocket expenses (Tes. p. 1413) to total expenses. In addition to the above, the standard of maintenance on the main lines of a railroad is considerably higher than is the standard of maintenance observed on branch lines and because only 33⅓ per cent of the maintenance expenses is affected by the gross weight handled over it, the out of pocket expenses on the main line divisions, and particularly on a double track railroad [fol. 1275] whose capacity is not being utilized, would represent a smaller percentage of the total freight operating expenses than would the out of pocket expenses in connection with branch line operations where double daily service was being performed over a wide area in order to distribute and assemble perishables. In consequence of the fact that the branch line miles of track operated in Florida represent a greater percentage of the total miles of track operated in Florida than do the branch line miles of track operated on the system, I am of the opinion that the out of pocket expenses on the third division will represent a greater percentage of the total freight expenses than they do on the system as a whole.

By Mr. Turnbull:

Q. What is your opinion with respect to the (Tes. p. 1414) assumption that the third division freight yard expenses represent the same percentage of the total freight expenses of the third division that the system freight yard expenses represent of the system total freight expenses.

A. In my opinion, there is no evidence of record in this case which warrants such an assumption. However, my Exhibit No. 106 shows that in 1929, 45.1 per cent of the total tons handled on the system originated or terminated in the State of Florida. This showing simply goes to prove that Florida is a terminal State and the fact that it is a terminal State warrants the conclusion that its terminal or yard expenses represent a greater percentage of total expenses than obtains on the system as a whole or that a larger amount of terminal service is performed by road crews in Florida than is performed by road crews on the [fol. 1276] system as a whole. If the freight yard expenses in Florida represent a greater percentage of total Florida freight expenses than the system freight yard expenses represent of the system freight expenses, then the application of the system out of pocket percentage of total freight haulage expenses to the Florida out of pocket expenses is in error and assigns too much expenses to the third division haulage expenses, in which event the unit gross ton mile and loaded and empty car mile costs as found by the defendant are excessive. On the other hand, if the road crews on the third division perform more terminal service than is performed by the road crews of the (Tes. p. 1415) system, this excessive terminal service should not be assigned to the movement of logs to which such service is not furnished, but should be assigned direct to the commodities receiving the terminal service in which event both the unit gross ton mile and the loaded and empty car mile costs as found are also excessive. The application of the percentage which system out of pocket expenses are to the total freight and to the total freight haulage expenses to the out of pocket expenses of the third divisions shows conclusively that the operating conditions in Florida and the relationship of freight yard to total freight expenses on the third division was ignored and that the entire case is predicated upon the assumption that total freight expenses and total freight haulage expenses and, therefore, freight yard expenses on the third division bear the same relationship to the out of pocket expenses on the third division that the same expenses of the system bear to the out of pocket expenses on the system. In other words, the defendant has predicated his costs upon system averages applied to the [fol. 1277] third division out of pocket freight expenses and by so doing has assumed that the out of pocket ex-

penses are the controlling expenses in connection with cost ascertainment. Turning now to the second sheet of Exhibit No. 84 (Tes. p. 1416), the 35.027 per cent represents the percentage which the out of pocket expenses are of the total expenses other than the out of pocket expenses and the 23.5492 per cent represents the percentage which out of pocket expenses are of the total freight expenses less out of pocket expenses. Mr. Lamb used the two percentages to expand the out of pocket unit costs per gross ton mile and per car mile obtaining on the third division in the State of Florida. I will now explain for the record just what expenses are comprehended in the expanded unit costs obtained by the use of these percentages. The expansion of the unit cost on the third division by the application of the percentage 35.027 does not produce the total haulage cost, but produces the haulage cost less the out of pocket cost for haulage. This is obviously true because the 35.027 per cent does not represent the percentage which the out of pocket costs is to total haulage cost, but it represents the percentage which the out of pocket expenses are of the total haulage expenses less the out of pocket expenses. The application of th percentage 23.5492 to the average out of pocket unit cost does not produce the total freight operating cost, but produces the total freight (Tes. p. 1417) operating expense cost less the out of pocket expense cost. This is true because the percentage used does not represent the relationship of out of pocket expenses to total freight expenses but represents the relationship of out of [fol. 1278] pocket expenses to total freight expenses less out of pocket expenses. Therefore, the use of expanded factors by the witness produces a unit cost and likewise an operating cost which does not include the out of pocket costs which he purports to use as the controlling factor in a determination of costs. Assuming that the Witness's theory is correct, he should have used 25.9405 per cent in expanding the haulage costs and 19.0606 per cent in expanding the total freight cost instead of using 35.027 per cent and 23.5492 per cent, as used by him in estimating the cost for the different distances. I turn now to defendant's Exhibit No. 85, just above the tabulation of 5¾ per cent return on investment, exhibit No. 85 shows that the Florida taxes are 15.3850 per cent of the total railway operating expenses assigned to the State of Florida. In this connection I want to again direct attention to the fact that

the operating expenses assigned to the State of Florida are assigned upon the operating revenue basis and reference to defendant's exhibit #79, line 22, under the year 1929, shows that for ever- $100.00 of revenue credited to Florida operations, the Atlantic Coast (Tes. p. 1418) Line Railroad assigned $73.83 of expenses as being applicable thereto. To be consistent, therefore, the defendant should, in determining the taxes applicable to specific movements, first assign 73.83 per cent of the revenue secured from such traffic as the expenses applicable thereto for taxable purposes and then apply the 15.3950 per cent to the amount of expenses so determined. It is obviously both unfair and inaccurate to determine a percentage relationship upon one basis and then to apply such relationship to the expenses determined in an entirely different manner.

[fol. 1279] At the bottom of the page is shown a tabulation of the system investment, expenses and return on investment, which on line 7, shows the ratio that the return on investment assignable to freight service is to the freight operating expenses. This tabulation deals with the system as a whole and does not deal with the average conditions in Florida, nor with the return upon the investment of the property used and useful in the transportation of logs intrastate in Florida and in my opinion, there is no evidence of record in this case which warrants the conclusion that the transportation of logs intrastate in Florida uses the same amount of property investment per dollar of expenses as is utilized on the system as a whole. Furthermore, I am of the opinion that the investment in roadway and structures and in equipment is more correctly (Tes. p. 1419) measured by the separation which obtains between the freight and passenger service in the maintenance of way and structures and maintenance of equipment blocks of expenses, respectively, than by the separation which obtains with respect to total operating expenses. I turn now to Exhibit No. 86. If Mr. Lamb had expanded the out of pocket ton-mile costs shown on line 9, by the ratio to the haulage expenses and to the total expenses, respectively, the out of pocket costs per gross ton mile would have been under column (a), .34035 cent and under column (b), .4632 cent, respectively. In other words, the gross ton mile haulage expenses would be approximately 36 per cent greater than the expenses shown under item 10A and the total expenses would be approximately 25 per cent greater than

are reported under column (b). In order to roughly test Mr. Lamb's costs I obtained from the Interstate Commerce [fol. 1280] Commission through Mr. Gutheim, a photostatic copy of form OS-A for the month of December, 1930, which reflects the gross ton miles excluding locomotives and tenders for the calendar year ended December 31, 1929. The gross ton miles reported on this form, in thousands, were 11,600,829, the total freight operating expenses, according to Witness Lamb's Exhibit No. 84, page 2, were $36,308,-813.00, from which an average cost per gross ton mile of 3.1298 mills is produced (Tes. p. 1420). As previously stated, line 10 under column (b) of Exhibit No. 86, if properly computed, shows a cost of 4.632 mills, or an amount which is practically 48 per cent in excess of the average system gross ton mile cost. Considering the amount of L. C. L. traffic handled by the Atlantic Coast Line Railroad in 1929, which my exhibit No. 104, showed to be about 4.4 per cent of the system tonnage, considering the extraordinary services furnished to the perishable freight, considering the volume of the log movement in train-load lots, and considering the loading of the log trains, I am satisfied that the average gross ton mile cost of handling logs in the State of Florida is nowhere near 48 per cent greater than the gross ton mile cost obtaining on the Atlantic Coast Line system as a whole, and this calculation convinces me that the methods employed by the defendant are arbitrary, not defensible, nor in accord with the usual accepted methods employed in cost ascertainment and that the results obtained by the application of such methods are inaccurate and unreliable (Tes. p. 1421).

[fol. 1281] H. J. Flack, was called as a witness and after having been first duly sworn, testified as follows:

Direct examination:

My name is H. J. Flack. I reside in the City of Jacksonville and I operate a traffic bureau in that city. I have been connected (Tes. p. 1422) with the traffic bureau at Jacksonville, Florida for the past nine years, since 1922. During the sixteen years preceding 1922, I was continuously connected with and employed by Armour & Company in the

traffic department, and in connection with the Fruit Growers Express. From 1918 to 1922 I was in charge of loss and damage and overcharge claims for the Fruit Growers Express at Jacksonville. In 1920 Armour & Company transferred its refrigerator equipment to Fruit Growers Express, Inc. I was not employed by the new company though I had an opportunity to do so. During the next two years I continued with the old company assisting in winding up the outstanding accounts and claims and business in my territory.

Q. I hand you Exhibit No. 61 of the witness Perrin in this proceeding and ask you if you have made any investigation or analysis of the log movement shown on this exhibit. And if so, state the extent and result of that investigation and analysis?

A. Shortly after the hearing in this proceeding at Jacksonville, on June 10th, 11th and 12th of this year, and at the request of the intervening lumber companies, Wilson Cypress Company, Cummer Cypress Company and Wilson Lumber Company, and on behalf of the State of Florida, I undertook to analyze exhibit 61 and the log movement shown thereon for the primary purpose of determining [fol. 1282] what portion of the movement took place from the several points of origin to the several destinations shown on Exhibit 61, between February 8, 1929 and January 31, 1930, (Tes. p. 1423) and what portion of the movement took place between February 1, 1930 and January 31, 1931, and to determine the descriptions or species of the logs embraced in the movement shown on that exhibit. And to show the amount of revenue collected in the two annual periods mentioned above and the amount of revenue collected in the two annual periods mentioned above to each of the destinations mentioned in Exhibit 61 and the amount of revenue collected for those two years applicable to the various species of logs. In every instance where it was necessary for me to do so in order to ascertain the facts I went to the points of destination shown on Exhibit 61 and likewise I went to many of the points of origin shown thereon, all for the purpose of ascertaining the facts shown on such exhibit and did ascertain such facts. I have prepared exhibits showing in condensed form the result of my investigation and analysis of this log movement. I have prepared as my Exhibit No. 111 a statement showing

in tabulated form under the various points of destination the log movements shown on Exhibit 61. On my Exhibit No. 111 at the top of columns numbered from 1 to 16 I have listed the various destinations to which logs are shown to have moved by Exhibit 61 of the witness Perrin. Column 17 shows the totals of the figures listed under the preceding sixteen columns (Tes. p. 1424).

Examiner Hoy: Correct Exhibit No. 111 in column (b) to show under the heading "Destination" "Revenue collected on logs moved between February 8, 1929 and January 31, 1930, inclusive."

[fol. 1283] The Witness: Three of the destinations shown on Exhibit 61 are omitted from my exhibit. Those points are as follows: Tampa, Florida: To which destination Exhibit 61 shows that three cars moved during the period under investigation. Claim, Florida: To which destination Exhibit 61 shows that two cars moved during the period under investigation. Childs, Florida: To which destination Exhibit 61 shows that one car moved during the period under investigation. I have shown Palatka, Florida upon my exhibit but have included therein only the carload movement consigned to that destination as distinguished from the solid trainload movement consigned to Wilson Cypress Company at that destination from Hines, Florida. I have omitted the solid trainload movement because that movement has been covered by the testimony of other witnesses. (Tes. p. 1425.) Glenwood and Bonds Mill shown as separate destinations on Exhibit 61 constitute in effect one destination, and the shipments consigned to those points were consigned to and received by but one mill, namely, the mill of Putnam Lumber Company at that point. I have therefore listed them together on my exhibit in column 4. In checking up the movement to the various points of destination shown on Exhibit 61 I failed to find any record in some instances of cars of logs shown by Exhibit 61 to have moved from particular origins to the listed destinations, and likewise found some cars from other origins to those destinations which are not shown on Exhibit 61. The difference between my exhibit and Exhibit 61 in cars to the destinations listed on my exhibit is that I was unable to locate any record of 163 cars shown on Exhibit 61 to have moved during the period covered by that exhibit but I did [fol. 1284] locate records of 88 cars which moved to these

destinations during that period which are not shown on Exhibit 61, so that the net difference between my exhibit and Exhibit 61 is 75 cars.

Mr. Gwathmey: I am sure we will want to hear Mr. Flack's testimony and it seems to me it would clarify the record considerably if he would state just what check he made, that is to say, whose records he checked, the shippers' records or the receivers' records or the railroads' records or what.

The Witness: I can explain that in connection with each (Tes. p. 1426) individual destination.

Mr. Adair: I would like to state, your Honor, that the testimony of this witness and these exhibits are not produced here for the purpose of contradicting the facts set forth in Exhibit 61. They are in explanation and analysis of it as distinguished from contradiction of it.

The Witness: These slight variations are doubtless due to misnomers or errors in the records of the consignees or of the carrier and are not material to my analysis but I will point them out in my discussion of the particular movements to the particular destinations shown on my exhibit. It will be observed that this exhibit shows in the first and second lines, marked (a) and (b) respectively, under column 17 that during the first year of the high rate namely between February 8, 1929 and January 31st, 1930, inclusive, 7,965 cars of logs moved, and that the total revenue collected therefrom was $201,891.20. During the second year that the high rate was in effect, namely, between February 1, 1930 and January 31st, 1931, inclusive, my exhibit shows that 3,204 cars moved, and that the total [fol. 1285] revenue collected was $70,274.75. There (Tes. 1427) were 4,761 cars less in the second year, and $131,616.47 less revenue in the second year. This is the third and fourth lines marked (c) and (d) respectively under column 17. I could not, of course, allocate the discrepancy of 75 cars existing between my exhibit and Exhibit 61 with respect to these two periods, except that Exhibit 61 shows 526 cars to have moved to York, whereas my investigation disclosed only 509 cars moving to York. At no time was there more than one mill at or near York, viz., the mill of Longleaf Lumber Company, and that company abandoned its operations there in 1929 and from thenceforward there was no movement to York. So that of the 75 cars variance between the movement disclosed by Exhibit 61 and that

disclosed by my investigation, at least seventeen cars must be allocated to the year 1929. In the fourth line marked (d) under Column 17 I have shown the total revenue collected by the Atlantic Coast Line Railroad Company on the logs which my exhibit shows to have moved during the second year of the high rate. This is divided under each of the destinations and the total amount of revenue collected during this period to each particular destination is shown. The total revenue collected in this period is shown to be $70,274.75. In arriving at these revenue figures, wherever my records showed more or fewer cars than Exhibit 61, from a particular origin to a particular destination, I had to divide the revenue (Tes. p. 1428) shown by Exhibit 61 to have been collected by the number of cars shown by that exhibit to have been moved from that particular origin to that particular destination, so that I could determine the revenue per car from that point of origin [fol. 1286] to that point of destination. I then multiplied this resultant figure by the number of cars of which I had found records from that point of origin to that destination, and thus arrived at my figures of the revenue collected on the cars of which I found records. Because of the fact that these cars vary somewhat in weight, my figures thus arrived at may not be entirely accurate, but the discrepancies in number of cars between my exhibit and Exhibit 61 as to the various points of origin and destinations were so few that it would be impossible for this to make any material difference one way or the other. Of course, with the exception of the discrepancies above shown, my records coincided with the number of cars shown by Exhibit 61 to have moved from the particular origins to the particular destinations which are shown on Exhibit 61, and in all these instances where my records coincided with Exhibit 61 the revenue collected was taken without change from Exhibit 61. Exhibit 61, excluding the above-mentioned movement to Tampa, Childs and Claim, and the solid trainload movement from Hines to Palatka, shows that the Atlantic Coast Line Railroad Company collected during the whole of the two year period the sum of $273,228.07 from the log movement. My (Tes. p. 1429) exhibits show that the railroad collected during the same period from the same source the sum of $272,165.95, a difference of $1,062.12.

My foregoing exhibit shows that the log movement to five of the destinations listed, namely, Eastport, Gainesville, Live Oak, York and Baldwin, was permanently discontinued within the first year after the higher rate went into effect, [fol. 1287] and that there was no log movement to these destinations during the second year of the higher rate. I now propose, with the aid of certain exhibits I have here, to analyze the log movement to each of the destinations listed in my foregoing exhibit and give such information as I have been able to obtain with reference to each of them. My first exhibit, 111, shows that the log movement to Groveland took place during the second year of the higher rate. I have here marked Exhibit 112, an analysis of that movement showing the points of origin of the several cars moving during this period to this destination, the number of cars from each such origin, the distance in miles from each such point of origin to such destination, the description or species of such logs, and the revenue collected on the movement from each point of origin, as well as the total number of cars to this destination, and the total revenue collected on these cars. It may be observed that this exhibit coincides (Tes: p. 1430) exactly in all of these particulars with Exhibit 61 of the witness Perrin, except that I could locate no record of one car shown by Exhibit 61 to have been shipped from Sorrento to Groveland. Exhibit 61 of course does not show the description or species of these logs, whereas my exhibit does do so. All of the logs shown on this exhibit as having moved to Groveland went to the J. Ray Arnold Lumber Company at that place. They were all cypress logs and that mill cuts nothing else. The mill has been shut down the last several months. This company owns its own tract of cypress timber adjacent to its mill and connected with the mill by its own logging road. Only a small part of the logs cut by this mill was ever transported by common carrier. This company discontinued shipping logs over the Atlantic Coast Line Railroad because——

[fol. 1288] Mr. Gwathmey: Mr. Examiner, I object. Certainly it is not competent for the witness to state why the company discontinued shipping over the Atlantic Coast Line.

(Discussion off the record.)

Examiner Hoy: I will sustain the objection (Tes. p. 1431).

Mr. Gwathmey: To save time, Mr. Adair, I am going to say further that I will have to object to this witness undertaking to testify to what somebody may have told him was the reason.

Mr. Adair: That is what I am going to bring up.

Mr. Gwathmey: I will object then.

By Mr. Adair:

Q. Mr. Flack, in the course of your investigation did you confer with any officer of the J. Ray Arnold Lumber Company?

A. Yes, sir.

Q. What, if any, cause was assigned by that officer for his discontinuance of the shipping of logs over the Atlantic Coast Line, if any such reason was assigned?

Mr. Gwathmey: Mr. Examiner, I want to say in the record, as I have just said off the record, that I have no disposition to be technical but I must object to this witness undertaking to repeat what somebody like the shipper may have told him as to the reason why he did so.

Examiner Hoy: The objection is sustained.

By Mr. Adair:

Q. What officer did you discuss this matter with?

A. I talked with Mr. Arnold, the brother of J. Ray Arnold. I do not recall his initials. He is in charge of the plant at Groveland.

Mr. Adair: May I ask your Honor to note an exception? (Tes. p. 1432.)

[fol. 1289] Examiner Hoy: Certainly. The exception may be noted.

(Discussion off the record.)

The Witness: My Exhibit 112 also shows an analysis of the log movement to Loughman, Florida, in the same form as that used with respect to the movement to Groveland. The shipments shown on this exhibit are identical with the shipments shown on Exhibit 61 to this destination. All of the logs (217 cars in the two year period, and all in the second year of that period) shown on this exhibit to have

moved to Loughman went to Everglades Cypress Company at that point. The mill cuts cypress exclusively, and these were all cypress logs. The mill is located near its own timber and is connected with that timber by its own tram road, over which the logs are transported to the mill. The logs carried over the Atlantic Coast Line are those which it buys from third parties. The Everglades Cypress Company contemplate completing the cutting of its own standing timber by the end of the year. They then propose to discontinue operations. My next exhibit, marked Exhibit 113, shows a similar analysis of the log movement to Slater, Florida. All of this movement, 71 cars, took place during the second year of the (Tes. p. 1433) higher rate, and the shipments shown on this exhibit coincide with those on Exhibit 61. These were pine logs which went to the Dowling & Camp Lumber Company. These logs were all shipped in April and May of 1930, and there has been no subsequent movement, and will be none. Mr. Fleishel has testified that this company will complete its cutting this year. It should be observed that none of these logs moved further than 25 miles.

[fol. 1290] My Exhibit 113 also shows a similar analysis of the log movement to Bond's Mill and Glenwood, segregating the figures between the first and the second year of the higher rate, namely, from February 8th, 1929 to January 31st, 1930, and from February 1st 1930 to January 31st, 1931, respectively. This shows 95 cars in the first year and 121 cars in the second year moving to the mill of Putnam Lumber Company, which is located at these two stations. It likewise shows that the revenue collected in the first year was $2,155.32 and in the second year was $2,630.20. I was unable to locate any record of 14 cars shown on Exhibit 61 to have moved from Cassia to this destination, but located and included in my exhibit records of 1 car moving there from Apopka, which was not shown on Exhibit 61. Of course, I do not know whether the cars of which I could locate no records moved during the first or second year of the high rate. These logs were all cypress except that certain cars as shown on this exhibit were mixed (Tes. p. 1434) cypress and hardwood. The hardwood in these cars amounted to approximately 46 cars and the rest was cypress. The hardwood logs were shipped in to that mill and cut for the account of Wilson

Lumber Company. This Putnam mill is located in the timber and the bulk of its logs were transported to the mill from the timber by its own logging roads. The shipments over the Atlantic Coast Line Railroad to this destination are completed, no logs having moved since February 1st of this year, and no future log movement is expected.

Mr. Gwathmey: Mr. Examiner, I will have to object to this witness testifying as to matters of which he has no [fol. 1291] personal knowledge. I submit that the witness is not qualified to testify, having no knowledge on the subject as to whether or not any future movement of logs from this particular territory is expected.

Mr. Adair: I have no objection to that being stricken out. Mr. Fleishel testified to it and it seemed better to make the narrative read consecutively.

Examiner Hoy: In the form in which the objection is made I feel I will have to sustain it.

Mr. Adair: I have no objection to it being stricken.

Mr. Gwathmey: I am trying not to be technical, but I do feel there is a limit to which the witness should be allowed to go in testifying as to matters of which he has no personal knowledge (Tes. p. 1435).

Mr. Van Norman: I submit your witness went further than that.

Mr. Gwathmey: Two wrongs do not make a right even if I admit what you say.

Examiner Hoy: Let us continue with the testimony.

A. In my next exhibit, Exhibit 114, I have similarly analyzed the log movement to Jacksonville during the first and second years of the high rate, respectively. This exhibit shows that the shipments to this destination during the first year of the high rate amounted to 961 cars, which produced a revenue of $23,772.77, and during the second year amounted to 266 cars, which produced a revenue of $7,646.15. In comparing my figures with those shown by Exhibit 61 I found no record of the following shipments shown by Exhibit 61: From Ascot, 1 car; from Callahan, 2 cars; from Carbur, 3 cars; from Clara, 1 car; from Cler- [fol. 1292] mont, 1 car; from Old Town, 9 cars; from Trenton, 1 car; from York, 1 car; from Oviede, 2 cars and from Hague, 3 cars; a total of 24 cars. However, I located and included in my exhibits records of the following ship-

ments not shown by Exhibit 61: From Hollister, 3 cars; from Johnstown, 10 cars; and from Jones to, 5 cars; a total of 18 cars. So the net difference between my figures and those shown by Exhibit 61 is 6 cars to Jacksonville out of the 1,233 cars shown on Exhibit 61 to have been shipped to that destination (Tes. p. 1436). Of course, in this as in all of my other exhibits I have no way of ascertaining whether the cars of which I found no records moved during the first or second years of the high rate. These Jacksonville shipments were consigned respectively to the American Hardwood Corporation, Thompson-Katz Lumber Company, Wilson-Otwell Lumber Corporation, F. S. Buffum Company, Inc., Hazard Brothers, Gress Manufacturing Company and Hessler Hardwood Company. The American Hardwood Corporation failed and went out of business during the first year of the high rate. It operated throughout the year 1929, and received 566 of the cars of logs shown to have been shipped to Jacksonville during the first year of the high rate. Thompson-Katz Lumber Company formerly received most of its logs over the Atlantic Coast Line Railroad. It received 291 cars in the first year of the high rate, and 118 cars in the second year. This Company is located on the tracks of the Seaboard Air Line Railway. The Thompson-Katz Lumber Company during the period of high rates got cars in by other transportation methods. They decreased their (Tes. p. 1437) shipments over the Atlantic Coast Line Railroad after the [fol. 1293] time the high rate went into effect. Wilson-Otwell Lumber Corporation is likewise located on the Seaboard Air Line Railway at Jacksonville. It received 21 cars of logs during the first year of the high rate, and 3 cars of logs during the second year of the high rate over the Atlantic Coast Line Railroad. About 80 per cent of the logs received by this Company have been and are being transported by truck. F. S. Buffum Company, Inc., began operating in Jacksonville about May, 1930 upon the mill-site formerly occupied by the American Hardwood Company. During the second year the Buffum Company received 99 cars of logs over the Atlantic Coast Line Railroad. Its mill is located on McCoy's Creek in Jacksonville. During the period of the high rate it obtained the greater percentage of its logs by water and by truck.

Mr. Gwathmey: In view of the fact that I am not objecting specifically to a great deal of this testimony but which I might, I think, properly object to, may I ask whether it may be understood that this information, so far as this witness is concerned, is based entirely on information that was given to him by somebody else? (Tes. p. 1438.)

Mr. Adair: Mr. Gwathmey, that question, if it must be answered categorically, must be answered in the negative. If you mean as to intentions with respect to the future I will answer it in the affirmative. It undoubtedly is based wholly upon information given to him by somebody else. As to existing conditions and things in the past it is not wholly upon statements made to him but from an examination of records and upon his own observation and his knowledge of existing conditions.

[fol. 1294] The Witness: Hazard Brothers at Jacksonville received 3 cars of logs during the first year of the high rate, and 22 cars of logs during the second year of the high rate, over the Atlantic Coast Line Railroad. Gress Manufacturing Company received 24 cars of logs during the second year of the high rate over the Atlantic Coast Line Railroad. The Gress plant is located on McGirts River at Jacksonville, and received substantially all of its logs by water and by truck. Hessler Hardwood Company received 80 cars of logs during the first year of the high rate. It failed and went out of business during the first year (Tes. p. 1439). Almost all of the movement to all of the consignees at Jacksonville during the two years of the high rate was hardwood. There were only 58 cars of cypress, and the balance of the 1,227 cars was hardwood. As has been pointed out, the total revenue derived from logs moving to Jacksonville during the first year of the high rate was $23,772.77, and the total revenue derived from such movement during the second year of the high rate was $7,646.15 (Tes. p. 1440).

July 21, 1931.

Witness H. J. Flack continuing:

My next exhibit, No. 115, is a similar analysis of the log investment to Perry, Florida, during this same period, dividing the time between February 8, 1929 and January

[fol. 1295] 31st, 1930, and between February 1st, 1930 and January 31st, 1931. In my investigation I could locate no record of the following cars of logs shown on Exhibit 61: From Athens, 2 cars; from Clara, 2 cars; from Cross City, 10 cars; from Drifton, 4 cars; from Erida 10 cars, from Eugene, 2 cars; from Feson, 5 cars; from High Springs, 3 cars; from Jones Siding, 21 cars; from Lamont, 10 cars; from Miccosukee, 4 cars; from Monticello, 3 cars; from Old Town, 3 cars; from Thompson's Spur, 6 cars; a total of 87 cars (Tes. p. 1441). I did locate and include in my exhibits records of the following cars not shown on Exhibit 61: From Baum, 21 cars; from Carbur, 2 cars; from Hague, 1 car; from Hildreth, 2 cars; from Homosassa, 3 cars; from Palatka, 2 cars; from Santa Fe, 5 cars; from Mt. Plymouth, 2 cars; and from Williston, 2 cars; a total of 40 cars. Baum and Jones Siding are each 59 miles from Perry so the 21 cars from Jones Siding I could not locate may be the 21 cars from Baum which I did locate and of which Exhibit 61 contained no record. The net result is that my records show 47 cars less to this destination in the two years than Exhibit 61 does. My records show that the logs moving to Perry were hardwood logs only and were shipped to Wilson Lumber Company of Florida. My exhibit shows 2,107 cars in the first year of the high rate, and 1,078 cars during the second year of the high rate. The total revenue collected in the first year of the high rate from this movement was $55,438.58, and in the second year $21,766.76. As soon as possible after the high rate went into effect Wilson Lumber Company effected arrangements to transport a large proportion of its logs by truck or over the Live Oak, Perry & Gulf Railroad and the South Georgia Railway.

[fol. 1296] It should be observed that the average haul was 59.4 miles in the first year of the high rate, and only 39.2 miles in the second year of the high rate. The log movement to Cross City has been explained by Mr. (Tes. p. 1442) Fleishel in his testimony. I have prepared and marked Exhibit 116, a similar analysis of this movement during the respective two years of the high rate. I was unable to locate any record of 1 car shown by Exhibit 61 to have been shipped from Hines to Cross City but otherwise the records I found were identical with those shown on Exhibit 61. My exhibit shows 325 cars in the first year

with a revenue of $6,122.26, and 934 cars in the second year with a revenue of $19,778.72. This exhibit shows that this movement consisted almost entirely of shipments of pine logs from Hines and shipments of cypress logs from Carbur. All of these logs went to the Putnam Lumber Company which has a pine saw mill and a cypress saw mill at Cross City. The pine logs from Hines were logs that were developed in the course of the cypress logging operations of the Wilson Cypress Company and which were sold by that company to the Putnam Lumber Company, the Wilson Cypress Company having no pine saw mill. No further pine is now developed by the Wilson Cypress Company in their operations and this movement has therefore ceased. The cypress logs from Carbur developed in the same way as an incident to the pine logging operations of the Brooks-Scanlon Corporation. At that time the Brooks-Scanlon Corporation had no cypress saw mill and therefore sold these logs to its nearest neighbor who could handle them, the Putnam Lumber Company. The Brooks-Scanlon Corporation now has its own cypress mill and is transporting its logs by its own railroad and this movement (Tes. p. [fol. 1297] 1443) is therefore completed. It should be also observed that the movement to Cross City was a very short haul, the average haul per car during the first year being 10 miles and during the second year being 26½ miles. The testimony of Mr. Foley in this proceeding shows that the log movement to Eastport shown by Exhibit 61 took place completely within the first few weeks after the high rate went into effect on February 8, 1929. There has been no movement to that destination (Eastport) since. My Exhibit 116 also shows a similar analysis of this movement. This shows 224 cars of pine logs in the first year producing a revenue of $10,403.43. The log movement to Gainesville shown by Exhibit 61 consisted of certain cars of hardwood logs shipped to Brown Brothers at that destination during the year 1929. Brown Brothers failed and went out of business in 1929 and closed their mill and there have been no further shipments to that destination. In my Exhibit 117 I have tabulated this movement in the same manner as the log movement to the destinations previously mentioned. This shows 72 cars in the first year producing a revenue of $2,100.83 (Tes. p. 1444). Exhibit 61 shows 39 cars of logs shipped to Live Oak. These were hardwood logs shipped

during the year 1929 to Hair Hardwood Company, whi
company had a small mill at Live Oak. No further lo
were shipped there during the period of the high rate, a
that company failed and is out of business. In 1929 the
was no other mill at that point. My Exhibit 117 al
shows an analysis of this movement in the same form as m
preceding exhibits. This exhibit shows 39 cars moving
Live Oak in the first year of the high rate producing
revenue of $854.34.

[fol. 1298] Exhibit 61 shows 526 cars of logs shipped
York, Florida. The Longleaf Lumber Company had a mi
at York during 1929, and I find records of 509 cars shipp
during that year to that company, and after the high ra
went into effect. The mill was then closed down and mov
to Indian Town, which is located in some timber in southe
Florida near Lake Okeechobee, owned by that compan
There is no mill at York. These were pine logs. My E
hibit 118 shows an analysis of this movement in the sam
form as my preceding exhibits. This shows 509 cars of pi
logs in the first year producing a revenue of $8,778.70. Th
average haul to York was 35.2 miles. Exhibit 61 show
that 95 cars of logs were shipped to Buffalo Bluff fro
various points of origin in Florida. These were hardwoo
logs which went to the J. W. Jones Lumber Company (Te
1445). I could find no record of 1 car shown to have bee
shipped to that destination from Jacksonville. All of thes
cars of logs, except one, were shipped during the year 192
This log movement is also shown on my Exhibit 118.
the first year there were 93 cars, producing $1,711.88
revenue, and the average haul was 29.9 miles. In the se
ond year there was 1 car, producing $15.57 in revenue, whi
was hauled 27 miles. In the year 1930 this company tran
ported its logs via the St. Johns River. The log movemen
to Lacoochee has been explained by Mr. Cummer in h
testimony in this proceeding. It was largely a solid trai
load movement. Only a small part of this movement too
place during the second year of the high rate. I have pr
pared and marked Exhibit 119 showing a similar analys
of that movement during these two years. I could locat
no record of two cars shown by Exhibit 61 to have bee
shipped from Linden but I found records of and included i
[fol. 1299] my exhibit, 19 cars from Homosassa, which we
not shown on Exhibit 61. These were all cypress log
shipped to the Cummer Cypress Company. The movemen

was practically completed in 1929. My Exhibit shows 3,004 cars in the first year, producing a revenue of $77,082.64, and 225 cars during the second year, producing a revenue of $3,943.34. It should likewise be observed that the average distance per car (Tes. p. 1446) during the first year was 60 miles, and during the second year 19.9 miles. The log movement to Otter Creek as shown by Exhibit 61 consisted of 519 cars of hardwood logs shipped to the Cummer Cypress Company at that destination for the crate mill of that Company. This all moved in the first year after the high rate went into effect, except six cars which were shipped in February, 1930. This movement was then completed. My Exhibit 119 also shows that the revenue in the first year of the higher rate was $13,034.45, and that the revenue in the second year was $151.92. Mr. Cummer has fully testified with reference to this. My investigation disclosed that the 9 cars of logs shown by Exhibit 61 to have moved to Baldwin were shipped during 1929 by a man named Townsend who attempted to operate a mill at Baldwin at some time during that year. He moved a few logs up the canal to Jacksonville and shipped them from that point to Baldwin. He then closed his mill down and moved it away. This movement is shown by my exhibit 120 in the same form as my preceding exhibits. My Exhibit 120 also shows a similar analysis of the log movement to Palatka, excluding the solid trainload movements from Hines to Palatka. The solid trainload movement will be completed in a short time but has been so thoroughly discussed by other witnesses in these proceedings that I have not included it in my exhibits. [fol. 1300] This exhibit shows 12 cars in (Tes. p. 1447) the first year, producing a revenue of $302.46, and 94 cars in the second year, producing $2,301.62 in revenue. These were the log movements to Palatka other than the above mentioned solid trainload movement from Hines. It will be observed that over the two year period the carload movements shown by my exhibit are slightly less than 1½ per cent of the logs shipped to Palatka, all of which were received by the Wilson Cypress Company. The solid trainload movement from Hines, therefore, accounted during this period for more than 90½ per cent of the logs received by Wilson Cypress Company. I have two further exhibits, marked Exhibit 121 and Exhibit 122. The first of those is an analysis of the log movement during the first year of the high rate showing the number of cars of pine, cypress

and hardwood logs; respectively, moving to each of the destinations referred to in my previous exhibits and the amount of revenue derived from each such movement with the totals at the bottom of the page. I have discussed each of the destinations in Florida to which logs moved over the Atlantic Coast Line Railroad during the two years that the high rate was in effect. The records I have obtained and testified about check very closely with those shown on Exhibit 61 which is said by the Atlantic Coast Line Railroad to show all of the shipments over its lines in Florida during this period. After two (Tes. p. 1448) years of the log rate prescribed in this proceeding by the Interstate Commerce Commission, the log traffic in Florida over the Atlantic Coast Line Railroad, with the exception of the movement of the Wilson Cypress Company from Hines to Palatka, consists of a small movement to Loughman, Flor- [fol. 1301] ida, a small movement to Jacksonville, Florida, and only a slightly less trifling movement to Perry, Florida.

Q. Those are the three destinations to which Mr. Langley of the Atlantic Coast Line Railroad Company at the recent hearing referred as being the only points to which the Coast Line was then transporting logs in Florida excepting Palatka?

A. They are. The movement to those three destinations during the second year of the high rate amounted to 272 cars of cypress logs, 1,289 cars of hardwood logs, and no pine logs, and produced a total revenue of $35,086.74 based upon the high rate. And as has been shown, there is included in those three movements 217 cars of cypress logs moving to Loughman, which produced a revenue of $5,673.83 and as has been shown by the testimony of other witnesses the Loughman movement will be completed this year.

By Mr. Adair:

Q. Mr. Flack, please tell me what investigation you made with respect to the Groveland movement in order to obtain the data which you have included in your exhibit (Tes. p. 1449) and in your testimony with respect to that destination?

A. I proceeded to Groveland to the mill of J. Ray Arnold Lumber Company. I talked personally with Mr. Arnold, who is manager of the mill. I examined and counted the

original Atlantic Coast Line paid freight bills. He did not have all of the paid freight bills at Groveland but advised me that Mr. Tom True, traffic manager Southern Cypress Association, had the balance of these paid freight bills at his office in Jacksonville. Upon my return from Groveland the next day I called on Mr. True and he turned [fol. 1302] over to me the original paid freight bills for examination. I saw all of the original paid freight bills as paid by J. Ray Arnold Lumber Company covering all of the shipments shown on my exhibit to this destination. At Loughman I saw Mr. Lee, Manager of the Everglade Cypress Company. Mr. Lee showed me their log car receiving book but in view of the fact that this record was in charge of the office manager who was in Kissimmee that afternoon, he did not wish to turn over this record without first consulting with the man who kept this book. Mr. Lee advised me that he would get up the record that I requested and forward it to me by mail which he did the following day, and I received it in Jacksonville upon my return (Tes. p. 1450). Slater is located south of Fort Myers, Florida. This mill is operated by the Dowling Camp Lumber Company. I learned that the Dowling Camp Lumber Company had made a claim against the Atlantic Coast Line for restitution for alleged overcharges upon the cars received by it at Slater and had placed all its paid freight bills in the hands of Mr. H. O. Taylor, a traffic man, for that purpose. From Mr. Taylor, I secured the information set forth in my exhibit. The Bonds Mill and Glenwood, this mill belongs to the Putnam Lumber Company, whose headquarters are at Cross City. I personally went to Cross City and found that the records on the Bonds Mill-Glenwood operations were kept there. The records covering these cars were secured from the original paid freight bills and I saw these paid freight bills on all of the cars shown in this exhibit. On the Jacksonville movement I found that Mr. G. L. Moore, traffic manager for the Jacksonville Lumber Dealers Association represented all of the consignees mentioned in my testimony, except the American Hardwood Com- [fol. 1303] pany. Mr. Moore had filed the original paid freight bills in connection with the claim for restitution (Tes. p. 1451). However, he had an abstract of the original paid freight bills which showed the shipping points, date of shipments, car number, consignee, description or species

of logs and amount of freight paid. He had made this abstract up from the original paid freight bills and had prepared the claim on behalf of each of these companies except the American Hardwood Corporation for restitution of the amount over paid during the period of the high rate. It covers all of the shipments shown on my exhibit except American Hardwood Corporation. With respect to American Hardwood Corporation, Mr. Thomas C. Guthrie, who represents certain interveners in this proceeding and who was personally present at the June hearing at Jacksonville, had the same sort of abstract of the movement to American Hardwood Corporation as Mr. Moore had of the others. My information with respect to these shipments was secured in the same way. I interviewed Mr. Towland at Perry. He is the secretary in charge of the books of the Wilson Lumber Company at that point. He showed me the original claim record which is an abstract of all the shipments received by his company at Perry. This abstract of freight bills carried the date of shipment, shipping points; kinds of logs; car numbers and amount of freight paid. I went to Cross City and saw Mr. Summitt of the [fol. 1304] Putnam (Tes. 1452) Lumber Company. He is manager and bookeeper of the company. He showed me the original paid freight bills which show all of the shipments shown on my exhibit to this destination. At the same time he showed me the original paid freight bills to Bonds Mill and Glenwood which I have mentioned before. With respect to Eastport, I went to Foley, Florida, where the Brooks-Scanlon mill is now located, having transferred its operations from Eastport. I saw Mr. Scherer, who testified in this cause in 1927. He told me that these records had been transmitted to Baker, Baker & Rutherford, their attorneys at Jacksonville, and the information was secured from that source. I showed to Mr. Scherer Exhibit 61 and he verified the movement of cars shown on that exhibit to have been shipped to Eastport. I went to Gainesville and endeavored to locate the plant of Brown Brothers. I found out that mill had failed in 1929 and had gone out of business in that year. I tried to locate Mr. Brown, the former proprietor of the mill, but was unable to do so. I called on Mr. Green who has charge of the Lumber Manufacturing Company at Gainesville, which had been manufacturing lumber in a small way at Gainesville for several years. There is no other mill at or near Gainesville. I ascertained

from Mr. Green that no logs were shipped to Lumber Manufacturing Company and that no logs were shipped to any Gainesville mill in recent years except to Brown Brothers (Tes. p. 1453), and that Brown Brothers cut only hardwood logs at their mill. I did not go to Live Oak because I knew the Hair Hardwood Company had failed and gone out of business in 1929. I ascertained that the Hair Hardwood Company had filed a claim against the Atlantic Coast Line [fol. 1305] for restitution and that this claim was in the hands of Mr. Commre of South Jacksonville. I called upon him and he verified the contents of Exhibits 61 in so far as shipments consigned to Live Oak were concerned. I went to York and there found that the Longleaf Lumber Company, formerly located there, had discontinued its operations in 1929 and had moved its operations to Indian Town, which is near Lake Okeechobee. There has been no other mill located at or near York in recent years. I learned that the Longleaf Lumber Company had made a claim against the Atlantic Coast Line Railroad for restitution for alleged overcharges upon the cars received by it at York and had placed all its freight bills in the hands of Mr. H. G. Taylor, a traffic man, for that purpose. From Mr. Taylor I secured the information set forth in my exhibit (Tes. p. 1454). With respect to Buffalo Bluff, this point is located about five miles from Palatka. The mill there is operated by the J. W. Jones Lumber Company. Mr. Jones exhibited to me his paid freight bills and log car receiving book and from these records I obtained the data shown on my exhibit covering this point. With respect to Lacoochee and Otter Creek I secured this information from the Cummer Cypress Company at Jacksonville. It should be observed that Mr. Cummer has testified with respect to this movement. I also went to Baldwin and found that the Townsend mill, which was a hardwood mill, had closed up and moved away in 1929 and that that was the only mill at Baldwin during the period of the high rate. I accepted the figures on Exhibit 61 as to this movement. I went to Palatka to the plant of Wilson Cypress Company and there examined the log car receiving book and the restitution claim filed [fol. 1306] by that company against the Atlantic Coast Line which included an abstract of the paid freight bills. From these records I obtained the information shown on my exhibit with respect to this movement.

Mr. Adair: Mr. Examiner, on behalf of the State I offer (Tes. p. 1455) in evidence the several exhibits about which the witness has testified.

Mr. Gwathmey: No objection.

Examiner Hoy: Exhibits Nos. 111 to 122, both inclusive, will be received.

By Mr. Adair:

Q. Mr. Flack, I hand you what purports to be a letter directed by the Atlantic Coast Line Railroad to the Gress Manufacturing Company under date of April 10, 1931, with respect to rates on logs. I will ask you to examine that letter and inform me whether or not you know whether on or about April 10, or in that neighborhood, any other shippers of logs in the Atlantic Coast Line Railroad received such a communication or a communication of such character?

A. The only particular consignee that I know positively received such a letter is the Wilson Lumber Company at Perry, Florida.

Q. Have you understood such a letter on or about such time was sent to other shippers?

A. I heard of the letter being received and discussed by various traffic men who were connected with lumber interests.

Mr. Adair: On behalf of the interveners we offer this letter in evidence, and tender it to our adversaries for (Tes. p. 1456) scrutiny as to its authenticity.

[fol. 1307] Mr. Gwathmey: Might I ask Mr. Adair what the purpose of the letter is?

Mr. Adair: Yes, sir; it is twofold. First, to show that this rate in so far as shippers generally were concerned appears to have been formerly restored to the Cummer scale on or about April 10, 1931. In the second place, that in the communication of restoration there is advice to the effect that the consignees of logs shipped under that Kummer scale may be called upon to pay in the future an additional sum of money for the transportation of logs.

Examiner Hoy: Well, that second reason has got no purpose in this proceeding at the present time, has it?

Mr. Adair: I am not sure, your Honor, but what it has, because Mr. Langley has testified here that there is only

this trifling amount of stuff since the restoration of the low rate, and I think a letter of that sort going to shippers or consignees of logs would discourage them from making arrangements to transport logs in the future with that implied threat in the letter.

Mr. Gwathmey: What I had in mind, Mr. Adair, by my question was to develop if I could whether or not your purpose in introducing the letter is to suggest that the Atlantic Coast Line had not complied with the requirements of the situation and made effective and maintained the Cummer scale during the (Tes. p. 1457) period after the order of the Interstate Commerce Commission was vacated?

Mr. Adair: Mr. Gwathmey, I consider that that question has no particular place in this case.

Mr. Gwathmey: I do not think so either.

Mr. Adair: I let the thing speak for itself. I do not [fol. 1308] propose to inject that issue into this case.

Mr. Gwathmey: As you probably know, Mr. Adair, there was some correspondence between the Railroad Commission of Florida and the Atlantic Coast Line concerning the publication of the tariff. That is what I had in mind.

Mr. Adair: I am not trying to inject that into this case at all. I am trying to show the effective date upon which the scale generally became effective.

Examiner Hoy: You offer the letter in evidence?

Mr. Adair: Yes, sir.

Mr. Gwathmey: No objection.

Examiner Hoy: It will be received as Exhibit 123.

Cross-examination:

I have no direct connection with any of the lumber companies (Tes. 1458) interveners in this case. I was especially employed for the purpose of this case to make the investigation to which I have testified. When I went to these various points and examined certain records and interviewed certain parties, they fully understood the purpose for which I was making the inquiries and making the investigation and received me cordially and were willing to co-operate in furnishing the information. They all

knew that it was intended for use in this case before the Interstate Commerce Commission for the further hearing.

Mr. Gwathmey:

Q. Mr. Flack, aside from what you learned by your personal investigation of the various records and what you gathered from your personal observation during the period in which you were at these various places, was all of [fol. 1309] the balance of your testimony based entirely upon what somebody told you?

A. As I have previously testified, the data and records concerning the accounts and number of cars, the period as far as years or dates are concerned, was obtained from the records, which I previously referred to. I do not think that there is anything additional to be (Tes. p. 1459) added to that question.

The Witness: The information was received from proper authorities in charge of the mills and plants at the various destinations.

By Mr. Gwathmey:

Q. It appears from your Exhibit 112, for example, the same thing being true in respect to your other exhibits, that taking, for instance, the mill at Groveland, during the first period which you show there was no movement of logs to Groveland, while during the second period, that is, the period from February 1, 1930, to January 31, 1931, there was a movement of 191 cars. In the course of your investigation did you learn why there was no movement during the first period but that a movement commenced during the second period, although the advanced rate was in effect during both periods?

A. I did not develop the reason for the absence of any movement (Tes. p. 1460) the first year.

Q. Did you develop the reason why there was no movement to Loughman during the first period, but a movement of 217 cars during the second period, although the advanced rate was in effect during the entire time?

A. In respect to Loughman, it is my impression that the mill was temporarily not operating during the first year.

Q. Well, it is a fact, is it not, as would appear from [fol. 1310] your exhibit that notwithstanding the fact that

the advanced rate was in effect on February 1, 1930, the movement did commence at Loughman and continued during that second period?

A. That is right.

Q. Can you explain why the Dowling Lumber Company at Slater received no movement during the first period but it had a movement during the second period, the advanced rate having been in effect during the entire time?

A. I am not able to give you any particulars regarding that.

Q. Mr. Flack, I understood you to make the statement a moment ago that the solid train movement from Hines to Palatka will be concluded in a short time. What is your authority for that statement?

A. That information was conveyed to me by the Wilson Cypress Company, Mr. Lecks (Tes. p. 1461). He is secretary of the Wilson Cypress Company. I have no knowledge whatever on the subject except what Mr. Lecks told me. As to whether the Wilson Lumber Company owns any logs, or buys its logs from other sources, they do both, they buy and they have their own timber. I know that through Mr. Rowland of the Wilson Lumber Company. In the course of our discussion that was the information I secured. I do not know of my own knowledge that the Wilson Lumber Company actually owns any logs at all.

[fol. 1311] Witness Pettijohn:

Direct examination (continued):

I have made a study of the records of the Atlantic Coast Line in Florida which enables me to say about what proportion of its total freight traffic is made up of so-called perishable fruits and vegetables. In the year 1929 the number of cars of perishable freight originating on the Atlantic Coast Line Railroad within the State of Florida was 229,068. Of this number of cars 59,687 or over 25 per cent were perishables. The reference to the authority is as follows: Schedule 941, pages 908 to 911, of the annual report of the Atlantic Coast Line Railroad to the State of Florida. I have treated as perishables Class No. 110, oranges, grapefruit, to and including

beans and peas, dried, Class No. 150; No. 111, lemons, limes and citrus fruit, N. O. S., 120, apples, fresh; 121, bananas; 122, berries, fresh; 123, cantaloupes and melons, N. O. S.; 124, grapes, fresh. (Tes. p. 1463.) 125, peaches, fresh; 126, watermelons; 127, fruits, fresh, domestic, N. O. S.; 128, fruits, fresh tropical, N. O. S.; 130, potatoes, other than sweet; 140, cabbage; 141, onions; 142, tomatoes; 143 vegetables, fresh, N. O. S.; 150, peas and beans, dry. In that last item there were two cars of beans and peas, dried.

Mr. Gutheim: That is all.

Cross-examination:

As to what that amounts to in tons I have not figured it up, but it would not be as great a percentage in tons as it is in carloads. Yesterday I testified as to a sum of about ten million dollars for terminal charges. I can point out how I did that. I am going to use 109 to do it. On sheet 1 of my exhibit 109 you use Accounts 202 to 225, inclusive. [fol. 1312] The amounts shown thereunder are (Tes. p. 1464) yard $849,955.03; road $4,457,063.84. Then you turn to page 2 of the exhibit and Accounts Nos. 376 to 389, inclusive, and Accounts 390 to 391, aggregate $3,875,981.02 yard expenses and Accounts 392 to 402, inclusive, and Accounts 412 and 413, aggregate $6,758,181.73 road. Combining the maintenance of way and transportation expenses we get a total yard expense of $4,725,936.05, yard expense; and a total road expense of $11,215,245.57. The sum of these two equals $15,941,181.62 and of this latter figure the yard allocation represents 29.6461 per cent and but 29.6461 per cent of the total freight expenses are assignable to yard operations and assigned to yards are $10,764,146.94 concerning which you made inquiry.

By Mr. Lamb:

Q. I understand then from your figures, that the $10,764,146.94 represents what are commonly known as terminal expenses or are just yard accounts?

A. Mr. Lamb, they are referred to in different cases as terminal expenses and yard expenses. In my opinion they are yard expenses. They do include all of the terminal expenses except such terminal expenses as would properly be assigned for house tracks and team tracks, and for the ex-

penses of local trains doing station work, such as loading and unloading way freight and station switching.

Q. Is it not a fact Mr. Pettijohn, that the $4,550,039 used on my exhibit No. 84 constitutes all of the yard accounts under (Tes. p. 1465) the I. C. C. classification?

A. Sheet 1 of your Exhibit 84 reflects, with the exception of items 278 and 279, maintaining joint tracks, yards and other facilities, debit and credit, all of the yard expenses that are directly allocated or assigned to yard service in the [fol. 1313] classification of accounts prescribed by the Interstate Commerce Commission.

Q. Including not only the maintenance but the operation of those yards?

A. That is correct, as far as the accounts have been provided by the Interstate Commerce Commission to specifically set forth yard expenses.

Q. So that when you state there is a difference of five million dollars, approximately, between the yard expenses shown on my exhibits and the yard expenses developed by you, your comparison here takes into consideration not only the yard account but what are strictly known as terminal accounts under Dr. Lorenz's formula, for example?

A. Well, I would not say that they are strictly known as terminal accounts by a great deal, because there are certain of the expenses that are yard expenses regardless of the terminology that you wish to place upon it. I would be properly stating it to say they would come under the term of non-haulage expenses. It includes a pro-rate of expenses which are common to both haulage, non-haulage, yard, (Tes. p. 1466) and terminal. I believe, Mr. Lamb, I made that statement very clear in my original testimony.

C. R. MacPherson (recalled): I am president of the Wilson Cypress Company.

Q. At the former hearing you testified that you had shipped a number of cars in train load shipments from Old Town to Palatka in 1924 and 1925. I shall be very much obliged if you will now state for the record the number of cars and the (Tes. p. 1467) amount of freight paid in 1924 on this solid train load movement from Old Town to Palatka and likewise state the number of cars and the amount [fol. 1314] of freight paid in 1925.

A. Our movement from Old Town began in April, 1924, and during the balance of that year we shipped 2,191 cars and paid freight of $31,988.68. In the year 1925 we shipped from Old Town to Palatka 4,149 cars and paid freight of $59,096.96. That movement was a solid train load movement. Upon the former hearing I was asked to state some approximation of the proportion of single carload movement to solid train load movement that we had at Palatka in the last year or two. I then gave an offhand approximation. I have since been able to determine just what those percentages are. Confining myself to the Atlantic Coast Line Railroad movement, the proportion runs somewhat less than one and one-half per cent of our total cut. The single carload movements over the Atlantic Coast Line is somewhat less than one and one-half per cent of our train load movements over the Atlantic Coast Line Railroad (Tes. p. 1468) one and one-half per cent of the total.

Q. Mr. MacPherson, we would like to have you state briefly the character of this special equipment with which these log cars are equipped by your company for the transportation of logs in this train load movement. Just what is that equipment? Where is it attached to the flat car and how does it work?

A. The equipment consists of 8 stanchions, four on each side of the car, which are fastened into patent pockets. There is a trip on each side of the car which trips these pockets, releasing the stanchions. The stanchions at the top have a chain running across the car which holds the load in place. On the unloading this pocket is tripped. The log hook is placed on top of the car and pulls the top logs and the stakes fly out and the logs are unloaded. That [fol. 1315] makes for very quick unloading, and eliminates the breakage of stakes. Of course there is some breakage of stakes but it eliminates a good deal of it. The turn around of those log cars is 24 hours turn around; that is to say, we unload them and return them to the carrier of the same day. We retain no cars for our full free period, except for repairs. (Tes. p. 1469.) This equipment consists of these 8 stanchions four to the side and there runs across the top of the car, of logs four chains connecting the four stanchions and thus four times binding the logs across the top.

Q. Can you tell me what effect that has with respect to the amount of logs that can be loaded upon cars so equipped

and the amount that can be loaded upon cars not so equipped with that overhead chain equipment?

A. Well, I can explain that best by saying that our loads on our train load movement run from sixty four to sixty five thousand pounds. We are paying our freight now on an estimated basis of 65,000 pounds and the average of the logs which we are purchasing outside, which are sent in by gondolas or flats with home made stakes run about 51,000 pounds; so we get a bigger load per car by having the special equipment.

Q. How much bigger load?

A. It would be thirteen or fourteen thousand pounds per car. I have made an estimate to determine the amount of the average weight of the single carload shipments that we received during the two year period in which the high rate is in effect. The average weight of those cars (Tes. p. 1470) was 51,105 pounds.

Q. Now, tell me, Mr. MacPherson, would those logs so [fol. 1316] purchased ordinarily load more heavily to the car or lighter to the car than those which you transport from your timber on the Western Peninsula?

A. My judgment is the ordinary movement would weigh lighter. No, our train load movement would weigh lighter if you did not have the special equipment than the cars we have purchased outside, for this reason. The logs that we have purchased outside are only logs which are clear logs, with little or no defect, and we have only purchased logs which measure 16 inches at the butt, whereas the logs that we cut ourselves are 10 inches at the butt and we take logs that are pecky and logs with more defects than the logs we buy outside. By logs only 16 inches at the butt, I mean 16 inches and upwards. We maintain the equipment and we own the equipment (Tes. p. 1471).

Q. Now, while we are on this subject of maintenance, tell me this: At the last hearing you were asked as to whether or not you made the repairs to the sides of the cars, I believe. You expressed the view that you did but were not convinced upon the subject. Have you made any investigation of your method of procedure there?

A. Yes, sir; I have. We do make repairs to the steel sides. That arrangement has been in effect since April, 1930. I do not know exactly when Mr. Langley left Ocala, but I think it was somewhere around that time. The pre-

dominating species of wood in the lumber industry in Florida is long leaf pine, next cypress. Hardwood is logged incidentally to the cypress business and somewhat incidentally to the pine but more to the cypress business than to the pine business. They grow in the same sorts of places (Tes. p. 1472). As to the annual production of long leaf pine in Florida I cannot tell you accurately. I can make a good guess. I think it would run from three-quarters of [fol. 1317] a billion feet to a billion feet of pine. It is somewheres in that neighborhood. The annual production of cypress is around two hundred million feet under normal conditions. There is no such thing as reforestation in connection with cypress or any such thing as second growth cypress in this vast country. As to how old is a cypress tree when it is cut for timber, we had a government man down at our mill some years ago and he figured the logs we were cutting run from 300 to 400 year old. That is ascertained by counting the rings of annual growth on the log. As to whether I have ever seen any second growth cypress at all, I have seen little saplings or little sprouts, but it grows rather rapidly, the sprouts do, the first 10 or 15 years, and (Tes. p. 1473) then they stop. As to how big they get in ten or fifteen years, probably two or three inches in diameter.

Q. You have testified at the last hearing that you had around fifty million feet of timber in your western Peninsula and around three hundred million feet over tributary to the St. Johns River. About how many years cut is that for you?

A. When in full production we cut about 36,000,000 feet a year. Of course it varies with conditions and size of timber in different years and all that. I would say 35,000,000 feet a year would give us a ten-year cut if we ran steadily with no shut-down. In stock at Palatka we have about 48,000,000 feet now; a little over 48,000,000 feet. It is more than a normal stock. The normal stock for us is 35,000,000 to 40,000,000 feet. We are bound to carry very large stocks in cypress on account of seasoning. We carry a little more than our normal cut so that we have plenty of [fol. 1318] assortments (Tes. p. 1474). 85 per cent of our shipments of lumber go to the north and our average freight rate on those shipments is 43 cents. That produces in money between twelve and a half and thirteen dollars a

thousand. It would produce somewhere around four million dollars outbound freight over the 10-year, or say 12-year period because after we shut down it would take us two years to liquidate an inventory. We have not shipped any lumber by water in a year and a half and I doubt if we will ship any by water.

Q. Tell me this: If for any reason before you got out your timber in the Western Peninsula you should make other arrangements, either for the transportation of the remaining portion of it by other than the Atlantic Coast Line Railroad or for the milling of it elsewhere, would under any circumstances that change in plan result in increasing the outbound freight on lumber for the Atlantic Coast Line Railroad?

A. No, it would not. We have about 50,000,000 feet over on the Western Peninsula and our capacity (Tes. p. 1475) is about 36,000,000 feet a year. We run about 3,000,000 feet a month; sometimes a little over. If we should operate normally we would have only a trifle more than one year's cut in the Western Peninsula. As to whether I know anything about the operations of the mill at Loughman, I do.

Q. It appears from other testimony here in this case that during the second year of the high rate, 217 cars of logs were shipped into Loughman, whereas none were shipped in during the preceding year. If you know, can you tell me why there was a log movement in the second year of this high rate?

A. Yes; I think I can. The Everglade Cypress Com-
[fol. 1319] pany at Loughman will be through cutting their own timber in September of this year. They own no more timber down in that territory. During the past year or year and a half the tail end of their timber has been very small and very poor. They have not been able to get the better grades out of it and they have been buying outside logs of about the same quality as the logs we have been buying on the outside to balance their stock of lumber, so that they can have some high grade lumber with the (Tes. p. 1476) low grade, which their own timber produces, to compete in the market, because the only business there is now in selling lumber in mixed cars where they want a few thousand feet of high grade lumber and a few thousand feet of low grade in mixed cars and they could not

compete in this market unless they had this good timber. They are bound to have some high grade logs in order to market their low grade logs in the clean-up.

Cross-examination.

By Mr. Gwathmey:

Q. In answer to Mr. Adair, you said that there is no such thing as reforestation or regrowth of cypress timber. Would you make the same answer in respect to pine timber?

A. No, sir; I would not.

Q. There is such a thing as reforestation or regrowth of pine timber, is there not?

A. Yes, but whether it is feasible on a commercial basis or not is a mooted question between lumbermen.

Q. In answer to the Examiner you stated that your estimate of the cut in Florida was based upon what you term normal conditions. Would you indicate more definitely what period you had in mind, or just what you mean by "normal conditions?"

[fol. 1320] A. I would mean the conditions that prevailed in 1929 and (Tes. p. 1477) early in 1930 when we had pretty fair conditions.

Q. In other words, do you regard conditions that prevailed in 1929 and the early part of 1930 as representative of normal conditions in the lumber industry?

A. No. When you get to talking about normal conditions in the lumber industry, we are getting into a pretty broad field. I think I testified at the last hearing my opinion was that the lumber industry had seen its best years in the early 20's, due to the influx of western wood since that time, which has been constantly depressing the southern lumber markets.

Q. Laying aside the question as to normalcy, I understand you to say in answer to the Examiner you had in mind particularly the period 1929 and the early part of 1930, is that right?

A. Yes, sir; I cannot speak about the pine business as to when their time of normal production was, but in the cypress business we would run along about normal with the conditions the same as they were in 1929.

In reference to these repairs to cars, the logs are loaded on to flat cars. I spoke of 8 stanchions. Those are of

wood. Those are furnished by our company (Tes. p. 1478). I also spoke of certain patent attachments by which the stanchion is attached to the car. They are also furnished by our company. They are permanent attachments to the car. These cars are assigned to our special service. For instance, at the time we had our fire the railroad required us to dismantle those cars and take our equipment off so they could use them in other service because the movement ceased for a period of 7 months. Those attachments are of steel. They are furnished by our company. As to [fol. 1321] repairs to the steel sides of the cars. I am willing to admit my ignorance too, as far as what causes the damage and the exact technical nature of the repairs; but I understand it is largely straightening the sides that are bent and making other repairs on them. I checked up particularly after the last hearing with our man who is in charge of that work and he tells me that we do all of the steel side repair work under the arrangement we now have with the Atlantic Coast Line (Tes. p. 1479).

Q. Does your company stand the cost of any such repairs except when damaged occasioned while the cars are on your own line?

A. According to our contract, we are not required to, but, as a practical working out method we find unless there is main line wreck or something of that sort which the world knows about, that the burden of proof is put upon us and we are billed with the repairs of the car.

Q. You are, however, under no obligation to do that under your agreement?

A. We have had many disputes with the Railroad Company on that point. We have been unable to settle it satisfactorily and the best adjustment which we could arrive at was they would permit the work to be done by us rather than charge us the exorbitant rates they do under whatever your rulings are, under the M. C. B. rules.

I stated that the movement of logs by our company in single car lots represents one and one-half per cent of the total, less than one and one-half. As to what period I have in mind, I have the period shown in that Exhibit 61. I was speaking broadly of the period during which the advanced rate was in effect. As to whether that condition [fol. 1322] or that relationship existed prior to that (Tes. p. 1480) period, I think we purchased more outside logs

in 1930 than we probably ever had before, for the same reason that the Everglade Cypress Company did. We were in poor timber for a period and we wanted to keep our stock balanced, so we bought logs, only 16 inches at the butt and clear, No. 1 logs.

Q. Does that mean during the earlier period, the ratio of your single car movement was larger than it is at the present time—the percentage to the total?

A. No, I would say it would be less, but I have not checked it Mr. Gwathmey to be sure of my statement.

Q. Were these patent attachments, to which we have referred, put on the cars at your suggestion or that of your company?

A. I cannot tell you that exactly. We knew they were being used by Brooks-Scanlon and the Putnam Lumber Company when they were hauling over your lines. When they moved we bought some of their equipment from them. I imagine we talked it over with the lumber people and found out what they were using. As to when we began using the patent attachments I cannot tell you that exactly, no sir. When we determined upon that movement, we determined on using the patent attachment, but there was a period at the beginning when at the time of getting them we waited on Brooks-Scanlon for awhile until they cleaned up some of their (Tes. p. 1481) stuff, and there were various other things that entered into it; so we did not put them on immediately.

Q. What movement do you refer to: You say at the time of that movement.

A. I mean at the time we started hauling logs from [fol. 1323] Cross City, Florida, in 1924. Some of the earlier movements were made in ordinary flat cars with home-made stakes and the logs wired on though our policy prior to the movement was to equip cars with the stakes, but there was a delay before it was done.

I spoke of repairing the steel sides of the car. That is not all the repairs we make to the cars. We make all of the repairs except to the wheels and brases.

Mr. Gutheim: Let the record show that copies of Witness Flack's Exhibit No. 123 have been distributed to the parties.

Mr. Adair: Our adversaries are going to produce for the record a memorandum of cost studies on the single move-

ment, or I should say, the solid train load movement from Hines to Palatka. They have produced it for a month as typical for the year. We wanted to ask Mr. Lamb a few questions about (Tes. p. 1482) that when he comes back on the stand with respect to that cost memorandum before we can say finally whether we will accept that as typical for what they promised to furnish.

J. W. PERRIN recalled as a witness on behalf of defendants, and having been previously sworn, testified further as follows:

Direct examination:

I have prepared several additional exhibits which I desire to offer at this time.

Q. Distribute those exhibits and then we will proceed to deal with them. Certain of your exhibits previously filed in this case show comparisons between Florida log rates, interstate (Tes. p. 1483) and intrastate, and other low grade commodities which, as of this date, are subject to changes. I will ask you first to refer to the exhibits which [fol. 1324] you have produced, bringing these comparisons up to date.

A. At the first hearing in this case I filed Exhibits 18, 19 and 20, showing comparisons as to rates and per car revenues on Florida intertsate and intrastate logs and on other low grade traffic, including brick, gravel, sand, lime, limestone and cement. In the meantime, there have been changes in the Florida interstate log scale as well as in the scales of rates on the other commodities, and I offer three exhibits, Nos. 124, 125 and 126, to show what the comparison is of this date, both as to the rates themselves and the earnings per car.

Q. There has been some testimony by intervener witnesses that the calendar year 1929 was an unusually prosperous year for the lumber industry. What have you to say about that testimony?

A. At the preceding hearing I testified that the reduced movement of logs in Florida was not entirely the result of the increased rates prescribed by the Commission in this case, but that, independent of the change in the Florida

log rates, much of the shrinkage in the volume of log traffic is properly chargeable to generally depressed conditions tending to reduce the volume of all traffic. Statistics show that if there was any unusual degree of prosperity in the lumber industry in Florida in 1929 that condition must have been peculiar to Florida as (Tes. p. 1484) distinguished from the lumber industry of the country as a whole. Intervener witnesses claimed unusually satisfactory conditions in 1929 and that this was due to a good demand for lumber products at good prices, but the record of the lumber traffic as a whole does not bear out that contention. [fol. 1325] My exhibit No. 127 contains a tabulation by calendar years from 1920 to 1930, inclusive, of the record of cars and tonnage of lumber, laths, shingles and box, crate and cooperage stock for the United States as a whole and for the Southern District. These statistics were taken from reports of the Statistical Bureau of the Interstate Commerce Commission, reference to the individual reports for each year being shown in the exhibit.

It will be noted that in the United States as a whole the number of cars for 1929 was less than for any of the years included in the exhibit, except 1921 and 1930; very nearly the same comparison between 1929 and the other years applies in the case of lumber in the southern district. The statement shows that both in the United States as a whole and in the Southern district the heaviest movement was in 1923, and that in 1929, as compared with 1923, there was a falling off in the United States of 465,384 cars, or 23.2 per cent, while in the southern district there was a falling off of 161,717 cars, or 19.3 per cent. In order to show in another way whether or not the year 1929 was an unusualy good year, I have (Tes. p. 1485) added to the statement in this exhibit the lumber tons and revenue on the Atlantic Coast Line for each of these years. Here again it appears that 1923 was the best of the years since 1920, and that Atlantic Coast Line's lumber tonnage in 1929 as compared with 1923 fell off 775,480 tons, which is almost exactly 20 per cent. The Atlantic Coast Line's revenue in 1929 as compared with 1923 was reduced approximately 24 per cent. It is clearly apparent that not only did the lumber industry as a whole continue in 1929 the steady decline that has been in progress for several years until climaxed by the calamities in 1930 and 1931,

[fol. 1326] but that the decrease in the lumber and log traffic applied to the country as a whole and was not peculiar to Florida and could not have been due entirely to the change in the log rates in Florida.

Q. Do you contend that the volume of the Atlantic Coast Line's log traffic in Florida, independent of general depression in the lumber industry, was as great under the increased rates prescribed by the Commission as it had been under the low Cummer scale of rates?

Mr. Adair: I object to that question, or any such conclusion as that. We have been trying our best to get what the revenue was in those pre-interstate commerce days and they have persistently said they could not furnish it without dire cost to themselves and dire result to their case. I do not think they should be permitted now to testify with respect to what happened then (Tes. p. 1486).

Mr. Gwathmey: There was not a word about revenue in my question Mr. Adair:

Mr. Adair: I should like to add to my previous objection this: We also tried to get the amount of movement in those pre-interstate commerce order years and that likewise for the same reason was refused to us by the railroads and by the Commission.

Mr. Gwathmey: I frankly do not fully comprehend the point of Mr. Adair's objection.

Examiner Hoy: You may answer the question. You may give your opinion.

Mr. Adair: Exception.

A. I do not. It is clearly in the record that the Brooks-Scanlon Corporation moved its lumber plant to the interior and discontinued its train load movement of logs to Eastport, which necessarily reduced the volume of the Atlantic [fol. 1327] Coast Line's log traffic; the Putnam Lumber Company likewise established mills in its timber holdings and discontinued its Atlantic Coast Line train movements of logs, although it is of record that the move was made because the manufacture of lumber in the timber was considered more economical than to pay for the transportation of the logs even under the Cummer scale; likewise, the Cummer Cypress Company at Lacoochee shifted its logging operations to its own service, which although not so stated in this record, I understand is a combination of its

(Tes. p. 1487) own log train service over its own tram and thence over the Seaboard Air Line under a trackage right. Because of the fact that the logs formerly handled by the Atlantic Coast Line for these three large manufacturers constituted a large proportion of logs used in lumber manufacture in Florida, it is, of course, true that the discontinuance of these log train operations on the Atlantic Coast Line substantially reduced its total volume of logs transported in Florida.

By Mr. Gwathmey:

Q. Do you consider that such dimunition in the log traffic handled under the Cummer scale as may have come about means a loss in revenue to the Atlantic Coast Line?

Mr. Norman: I object to that question unless he gives the basis of his consideration. I do not know what he means by "consider"?

Mr. Gwathmey: I will ask him, if, in his opinion, it meant a loss of revenue based upon his knowledge of the facts.

Mr. Adair: I think we will have to ask, your Honor, that they give the revenue to show if there was a dimunition of it and the extent of it, and the whys and wherefores. I do not see how this witness can testify with respect to the [fol. 1328] causes of diminution when it does not appear in the record what the former figure was, or what the present figure is.

Examiner Hoy: All he can do is to give his opinion as an informed traffic man in charge of the traffic of the Atlantic Coast Line (Tes. p. 1488).

Mr. Gwathmey: I think Mr. Adair's objection to this question is very much like the objection to the previous question, it is based upon an entire misapprehension as to what the question means.

Mr. Norman: Or maybe what the answer is going to be.

Mr. Gwathmey: Or, what the answer is going to be. I am speaking of the gross revenues of the Atlantic Coast Line. Put in the word "Formerly" there. Now, may the witness answer?

Examiner Hoy: Diminution by reason of the increased rates? I do not care.

Mr. Gwathmey: May the witness answer the question?

Examiner Hoy: Yes.
Mr. Adair: Exception.

The Witness: Only as to gross revenue on logs. As a matter of common sense, no traffic is of value from a revenue standpoint unless it yields more revenue than the cost of its handling, and our study of the result of the operation under the Cummer scale is conclusive to us that such operation yields us no profit, but, on the contrary, resulted in an actual loss on the log traffic as a whole.

Mr. Adair: I move to strike out the last conclusion as not responsive to the question. It has no place in the reply, the last sentence. I also desire to object, Mr. Examiner, on the ground that the witness has not shown that he has made any such study and is evidently testifying as to what [fol. 1329] somebody told him. It has been absolutely established that nobody (Tes. p. 1489) could testify to what somebody else told him.

Mr. Gwathmey: All the question and answer means is, there is no profit to the Atlantic Coast Line in handling the log traffic at a loss.

Mr. Adair: I make the additional objection that they are producing here opinions when they have refused to produce facts heretofore.

Examiner Hoy: Just a minute, Mr. Adair. I will let the complete answer stand and overrule your objection. Of course, I think the Commission is liberal. They let in opinion evidence of traffic officials based upon their traffic experience. As to the weight of the opinion evidence in view of the fact they have not produced what you refer to, that is another question.

Mr. Norman: This witness says, "our" study. He did not say "his" study. Is he going to be permitted to testify——

Examiner Hoy: The word "our" interprets the studies of the various officials of the Atlantic Coast Line Railroad rather than the individual study of the witness. Am I right, Mr. Perrin? Is that what you mean?

The Witness: Yes, sir.

Examiner Hoy: That is my understanding of the word "our" when a railroad man uses it.

Mr. Norman: But when our witnesses use the word "our" we get into trouble.

Examiner Hoy: People he had no employment with (Tes. p. 1490).

Mr. Norman: He is employed by us.

[fol. 1330] Examiner Hoy: Let us not argue that. The objection was made and the objection overruled. Exception has been noted. There is no need for further argument.

Mr. Norman: It is proper for me, I submit, in support of this objection, to refer to the ruling made on another one.

Examiner Hoy: The objection was made at that time and I sustained the objection on the ground that the testimony was hearsay testimony.

Mr. Turnbull: May I ask one question. I do not understand whether your question referred to revenue and his answer refers to net revenue. Do you mean total revenue in your question?

Mr. Gwathmey: I mean net revenue.

Mr. Turnbull: His answer was with reference to net revenue.

Mr. Gwathmey: I will be glad to have the question corrected to use "net" revenue.

Examiner Hoy: Proceed.

By Mr. Gwathmey:

Q. Mr. Perrin, in addition to the lack of adequate remuneration, as we contend under the Cummer scale growing out of the transportation of logs under that scale, has any other circumstance brought about a more satisfactory revenue result to the Atlantic Coast Line under existing conditions than those which obtained before?

Mr. Adair: May I test the qualification of the witness on this exhibit, to see what study he has made of these things (Tes. p. 1491), or who has made these studies?

Examiner Hoy: Is there an objection?

Mr. Adair: Before the question is answered, I wanted [fol. 1331] to ask a qualifying question of the witness; that is from what source he gets it. He reaches up into the stars and just simply gets these figures.

Mr. Gwathmey: The witness is freight traffic manager of the Atlantic Coast Line. He has not had to reach up

to the stars to get the earnings of that company from a traffic standpoint.

Examiner Hoy: I think that is something to be developed on cross-examination of the witness?

Mr. Norman: Is he competent to answer until he has qualified?

Examiner Hoy: He can give his opinion as a traffic official of the Atlantic Coast Line, I think. At least I am letting him do that.

Mr. Gwathmey: May the witness answer the question?

Examiner Hoy: Yes.

The Witness: The location of the large mills of the Brooks-Scanlon Corporation at Foley and of the Putnum Lumber Company at Cross City has resulted in producing tonnage of lumber rather than of logs, and the transportation of lumber from the standpoint of net revenue is vastly better than the transporation of logs under the Cummer scale. During the slack business year of 1930 the revenue that accrued on lumber from the mills at Foley to destination, if on Atlantic Coast Line, and to points (Tes. p. 1492) of interchange with our connections, if destined beyond Atlantic Coast Line rails, amounted to $173,350.69. Similarly, the revenue on lumber from Cross City was $175,587.95. Of the lumber movement from Foley, 79.9 per cent moved to destinations reached by the Atlantic Coast Line, and 20.1 per cent to destinations beyond the Atlantic Coast Line's rails. Of the movement from Foley to Atlantic Coast Line destinations, 90 per [fol. 1332] cent went to Jacksonville, while to points beyond Atlantic Coast Line rails 76 per cent moved to points beyond Richmond, Va. Of the lumber from Cross City, 57 per cent moved to destinations on the Atlantic Coast Line, and 43 per cent to destinations beyond Atlantic Coast Line rails; of the movement to Atlantic Coast Line destinations 70 per cent went to Jacksonville, and 16 per cent to Tampa; of the movement to points beyond Atlantic Coast Line rails 21.5 per cent went beyond Virginia Cities, 21.3 per cent beyond Montgomery, 18.4 per cent beyond Albany and Waycross, and 17.9 per cent beyond Jacksonville or Palatka.

At page 334 of the record of testimony taken at the first hearing of this case in Valdosta, I testified that the average weight of 983 cars of logs handled under the Cummer

scale for the Brooks-Scanlon Corporation and the Putnam Lumber Company was 60,200 pounds per car, and that the revenue amounted to $20.47 per car; that the average haul was 158 miles and that the per car mile earning was 12.9 cents.

On lumber from Foley to Jacksonville the rate is 9.14 cents (Tes. p. 1493) per 100 pounds, and based upon the average per car weight of all lumber in the southern region of 52,000 pounds, the revenue per car from Foley to Jacksonville is $47.53, which, for distance of 169 miles, produces per car mile earning of 28.1 cents. Using as ultimate destinations eight of the principal eastern points to which lumber moves in large volume, the average proportion from Foley to Richmond is 23½ cents per 100 pounds, or $121.33 per car, which, for the distance of 730 miles, is equivalent to 16.6 cents per car mile.

[fol. 1333] From Cross City the rate on lumber to Jacksonville is 8⅓ cents per 100 pounds, producing revenue to 36.7 cents per car mile. From Cross City to Tampa the distance is 154 miles, the rate 9.6 cents per 100 pounds, the per car revenue $49.92 and per car mile revenue 32.4 cents. From Cross City to Richmond the distance is 775 miles, the rate proportion 23⅓ cents per 100 pounds, the revenue per car $121.33 and per car mile revenue 15.6 cents. From Cross City to Montgomery the distance is 315 miles, the rate proportion 14 cents per 100 pounds, the revenue per car $72.80 and the per car mile revenue 23.1 cents. From Cross City to Albany the distance is 162 miles, the rate proportion 9.8 cents, the revenue per car $50.96 and the per car mile earning 31.5 cents. From Cross City to Waycross the distance is 175 miles, the rate proportion 9.8 cents per 100 pounds, the per car revenue $50.96 and per car mile revenue 29.1 cents (Tes. p. 1494).

It will be noted that on lumber for the longest hauls to Richmond, which from Foley is 730 miles and from Cross City 775 miles, the per car mile earnings are 16.6 cents and 15.6 cents respectively, as contrasted with the 12.9 cents per car mile for the short haul of 158 miles on logs handled under the Cummer scale. For the shorter hauls of lumber that are more nearly the same in distance with the 158 miles haulage of logs, it is apparent that the revenue on the lumber traffic ranges roughly from two to three times the revenue on logs under the Cummer scale.

In the case of the train load movement of logs, an empty return of 100 per cent of the cars is necessary, and taking into consideration the fact that much of the lumber traffic [fol. 1334] to points beyond Atlantic Coast Line rails is loaded in foreign line cars, thus requiring no empty return of cars, the more satisfactory revenue result from handling the lumber than the logs is even more striking (Tes. p. 1495).

By Mr. Gwathmey:

Q. Mr. Perrin, testimony of various witnesses for the interveners in this case has been to the general effect, that eliminating the timber now held by a few large saw mill interests in Florida, there will be a very limited amount of logs remaining in that state. What have you to say as to that?

A. The testimony of intervener witnesses seems to definitely locate a billion feet held by the Brooks-Scanlon Corporation, a billion feet held by the Putnam Lumber Company, four hundred million feet held by Cummer Cypress Co. and four hundred million feet held by the Wilson Cypress Company, a total of two billion, eight hundred million feet. Testimony was given that the timber in Florida, other than these large holdings of the companies named, has been cut, is seen to be completely cut or is of such small volume and inferior character as to offer slight opportunity for further development of the saw mill industry in that state. Mr. Fleishel testified about relatively small holdings of some of the existing lumber operators, and undertook to establish the fact that the lumber manufacturing conditions in Florida are so different from the conditions in other southern states that there never (Tes. p. 1496) will be the number of small operators in Florida that are found in the other states. Within my experience there was a time when the same conditions existed in the other states served by the Atlantic Coast Line as now exist in Florida, whereby the large bulk of lumber manufactured was by large saw mill companies holding large tracts of [fol. 1335] standing timber. The real difference between Florida and these other States is that the manufacture of lumber in its larger proportions began earlier in the other States than in Florida, and the large individual holdings of standing timber in the other states have been cut earlier

than in Florida. Nevertheless, these other states, in which 60 per cent of the Atlantic Coast Line's mileage is located, are still producing 50 per cent of the lumber that we transport. The lumber industry at points on the Atlantic Coast Line in North Carolina and South Carolina still constitutes one of the most important industries to be found in those sections, although the manufacture of lumber is no longer confined so largely to the operations of large companies, many of which no longer exist. I have previously stated that approximately one-half of the Atlantic Coast Line's log traffic is in States other than in Florida. There is no reason that I know of upon which to base the conclusion that the future of the lumber industry in Florida will be any different from what has been, and still is, the lumber manufacturing conditions in these other states, and the fact that (Tes. p. 1497) standing timber in Florida may within the course of a few years become scattered in its larger proportions does not mean that as long as standing timber exists there will not be a demand for its use. What Mr. Fleishel said about bleeding trees for naval stores and cutting trees for cross ties in Florida has likewise been the practice in the other states. What I have just said applies to the entire state of Florida and is not limited to any particular part of it.

Q. What is your opinion as to the correctness of the representation made by the intervener witnesses as to the available timber in Florida?

A. First, with respect to the general movement of logs in [fol. 1336] large quantities and in small quantities, in practically every direction, as shown in my exhibit No. 61, it is, I think, not sufficient for the intervener witnesses to attempt to explain away this general and miscellaneous movement of logs even in a peroid of depression, merely by citing the circumstances under which some of the logs covered by Exhibit 61 were bought, sold or transported. My experience has been that it is impossible to forecast individual log movements based upon any reason for log movements that have already taken place. I here call attention to my exhibit No. 128, in which has been shown the number of cars of long length logs moved via Atlantic Coast Line within the State of Florida during the period February to June, inclusive, 1931. I have not the slightest doubt that even after the large operators in Florida have (Tes. p. 1498)

discontinued their operations, and even after present generations have passed away, logs will still be cut, bought, sold and transported between points in Florida.

Q. As bearing upon the testimony of intervener witnesses upon this subject, have you some additional information concerning the amount of standing timber in Florida and the likelihood of the movement of such timber in the future?

A. I have previously mentioned the testimony of intervener witnesses which definitely place at 2,800,000 feet timber owned by Brooks-Scanlon Corporation, Putnam Lumber Company, Cummer Cypress Company and Wilson Cypress Company and the inference to be drawn from their testimony that the remaining timber in the state of Florida is of very small importance. However, the United States Department of Agriculture in its Circular 124, issued Oc- [fol. 1337] tober, 1930, shows on page 4, Table 1, a compilation of the area of pine lands in each of the Southern states. I have that document here and available for examination, if any one wishes to see it. The explanation is made that "Table 1 is a computation based chiefly on a survey of standing pine timber made in the main producing region, from Virginia to Texas, in 1924. This was conducted by the Southern Pine Association, New Orleans, and is believed to be the most accurate survey of timber resources (Tes. p. 1499) yet made in any important lumber-producing region of the United States. The data were obtained in the form of board feet, but have been converted into acreage for the purposes of this bulletin. The computed figures have been checked against the local knowledge of state and Federal forest officers and other authorities." What I have just quoted is the explanatory note in connection with Table 1 on page 4 of Circular 124 of the United States Department of Agriculture. This Table 1 shows the area of pine lands in acres, by states, as follows: Virginia, 4,000,000; North Carolina, 10,700,000; South Carolina, 8,000,000; Georgia, 15,500,000; Florida, 18,000,000; Alabama, 15,500,000; Mississippi, 12,000,000, etc.

The 18,000,000 acres of standing pine timber in Florida represented 19,283,000,000 feet of long leaf pine and 2,630,000,000 feet of short leaf pine, total pine timber 21,913,000,000 feet. These last figures are contained in "Economic Conditions in the Southern Pine Industry" presented to the United States Timber Conservation Board by Southern Pine Association dated July 1, 1931.

Mr. Gwathmey: This circular, 124, from which Mr. Perrin (Tes. p. 1500) has quoted is a publication of the United [fol. 1338] States Department of Agriculture. We have a copy here which is available for the inspection of any one who wishes to see it. Unless counsel for the other side shall insist upon the document as a whole as an exhibit in the case, we do not care to do so. It is a public document.

Mr. Gwathmey: The publication to which Mr. Perrin last referred described as "Economic Conditions in the Southern Pine Industry" is a publication presented to the United States Timber Conservation Board by the Southern Pine Association. It is dated July 1, 1931. We understand that the Lumber Company, interveners in this case, are members of the Southern Pine Association. The record in the case also shows that the Southern Pine Association is a party to the case. I shall ask leave to offer this document as an Exhibit, subject to the qualifications, as it is a document of such recent date we have not been able to secure but one copy. However, if anybody desires it, we will undertake to obtain and secure copies later. I would like to ask Mr. Perrin to refer to the particular portions of the document which he has in mind and to which he wishes to direct attention.

The Witness: That part of this document having particular interest in connection with the matter before us is under title (Tes. P. 1501) II Timber Supply, beginning on page 4 and running to page 15. On page 2 is a compilation by states containing the information as to the measurement of standing pine timber in the State of Florida that I just put into the record. These figures which I have just read, showing in feet the amount of short leaf pine and the total of pine timber figures of the Southern Pine Association are reported to the United States Department as late as July 1, 1931. The Southern Pine Association has members lo- [fol. 1339] cated generally throughout the State of Florida, in various parts of the State.

Mr. Gwathmey: We ask that this exhibit be received.

Mr. Adair: We should like to ask a few questions before the document is admitted in evidence. As to the authenticity of it, I would like to ask a few questions.

Examiner Hoy: Mr. Perrin wants to make a little correction on the record, or an additional statement.

The Witness: I want to make this clear; The statement (Tes. p. 1502) of 18,000,000 acres of standing pine timber

is made in the Government publication to which I have referred. That 18,000,000 acres was converted from statistics furnished by the Southern Pine Association on a measurement basis. The other figures given by me, showing the measurement in feet, a total of something more than 21,000,000,000 feet, were furnished directly as such by the Southern Pine Association in its subsequent publication, as representing a fair estimate of the number of feet. And in this document from the Southern Pine Association, it is explained the method in which they arrive at their estimate. From reading the pages to which I have referred, 4 to 15, inclusive, you will find a detailed explanation of the thoroughness in which that survey was made, going to the extent of saying they traveled in each county by automobile, they conferred with the owners of the timber, they examined railroad records, and, in addifion to that, used their own expertness in the matter of timber survey.

Examiner Hoy: Mr. Perrin, those figures in the Government publication, if they were converted as stated in their publication from a measurement basis to an acreage basis, [fol. 1340] you do not know what method was used in so converting them, do you?

A. No, sir. My testimony with (Tes. p. 1503) respect to the number of acres of timber land in Florida was taken from Table I, on page 4 of the Federal Government publication.

Q. Would you be good enough to examine that page, or that table, and see if you have not included in there cut, overland as well as timber lands in determining the number of acres?

A. The figures I have put in the record are, in the first column, under the caption, "Total Area". It carries a footnote explanation reading: "Exclusive of cleared land and improved pastures formerly in pine". Now to the extent that that includes cut over land, I would answer yes to your question.

Q. Mr. Perrin, I will ask you again to examine this table and see if the first and second columns are not there expressly shown to separate in the first column the total area of what was formerly pine land, cut over and unimproved pine land and the second column showing the area of the old growth and the next three columns dividing up the areas of cut over lands?

A. I think the table speaks for itself. I have not referred to any column except the first column, which shows the total area in pine lands of all description, excluding cleared land and improved pastures, formerly in pine. The remainder of it is of no special interest to me because the first column gives (Tes. p. 1504) the information as to the acreage in pine timber.

Q. I am giving you an opportunity to explain this thing, because I feel in fairness we are going to assert that this table——

Examiner Hoy: Wait a minute. That is not offered in evidence.

Mr. Adair: The book is offered in evidence.

[fol. 1341] Examiner Hoy: No, that is not.

Mr. Adair: Well, I want it in evidence.

Mr. Gwathmey: Now, if Mr. Adair will pardon me. If that book is offered in evidence, as we are perfectly willing to do, it is a publication of the United States Department of Agriculture and nothing that this witness could say could change it one way or the other. It speaks for itself.

Mr. Adair: May I say this: I apprehend that the witness has misconstrued the meaning of the table and I want to give him an opportunity to examine it now at this hearing so that he might have an opportunity to guide himself accordingly.

Examiner Hoy: Do you offer, Mr. Gwathmey, both publications?

Mr. Gwathmey: Yes Mr. Examiner. I will offer Circular No. 124, which has been identified, and I will ask that it be received and numbered.

Examiner Hoy: That will be accepted as Exhibit No. 129 (Tes. p. 1505).

Mr. Gwathmey: I now offer the other publication, entitled "Economic Conditions in the Southern Pine Industry" to which the witness has also referred, and ask that that be received and numbered.

Mr. Adair: Your Honor, we have no objection to the filing of it. Never having seen the book before, we do not admit the truth of anything contained in it.

Examiner Hoy: Have you any objection to its admission?

Mr. Adair: We have no objection to its admission, for what it is worth.

Examiner Hoy: It will be admitted as Exhibit No. 130.

[fol. 1342]. By — Gwathmey:

Q. Mr. Perrin, based upon the amount of timber still remaining in Florida, to which you have referred, what effect upon the Atlantic Coast Line's revenues might reasonably be expected to result from the use of the Cummer scale of log rates as contrasted with the results under the scale prescribed by the Interstate Commerce Commission?

Mr. Adair: May I interpose an objection to that. I object (Tes. p. 1506) to the witness answering the question because he has not been shown to be qualified; second because no standard of comparison of former revenues has been here produced; and, third because it has been made to appear that the testimony of the witness is based wholly upon a comparison of rates to rates or upon the basis of a system of averages which clearly are improper and there is no foundation laid for such a study.

Examiner Hoy: Objection overruled. You may answer.

Mr. Adair: Exception.

The Witness: Not less than one-half of the timber in Florida that is now reasonably adjacent to railroads is reasonably adjacent to the Atlantic Coast Line. Pine timber along the South Atlantic seaboard has been characterized by the United States Forestry Department as one of the fastest reproducing kinds of trees in the world, and the total amount of timber in Florida will be large as a result of re-growth. However, if the Atlantic Coast Line can be assumed to transport 40 per cent of the logs to be produced in Florida from timber now standing, it will handle approximately nine billion feet, or approximately 128,570 cars og logs. If the average length of haul should be 81 miles, as was the case in 1929-30, which average haul may be ex-
[fol. 1343] pected to be increased as the timber becomes more scarce, our revenues under the Cummer scale, at an average revenue of $16.10 per car would be equivalent to gross revenue of $2,169,977.00. If the same transportation should be performed at the rates prescribed by the Interstate (Tes. p. 1507), Commerce Commission, which for the average haul of 81 miles is 5.5 cents per 100 pounds, or $38.50 per car, the gross revenue would be $4,949,945.00. The difference in the gross revenue under the two scales of rates would be $2,779,968.00.

Mr. Gwathmey: I will ask that the exhibits identified by this witness be received in evidence.

Examiner Hoy: The exhibits will be received.

A. There is only one thought that I have to suggest in addition to what I have already said and that is this: By a reading of the document that was prepared by the Southern Pine Association and filed as Exhibit 130, it will be very clear that the expert lumbermen who prepared that document confirmed almost the entire line of testimony I have given today about the priority of the manufacture of lumber in the regions farther to the north and the gradual extension of it to the south so as to now be heavier in Florida than in the States north and it makes a definite statement that there never will be a time in the South when timber will not be available for manufacturing (Tes. p. 1508).

[fol. 1344] Cross-examination.

By Mr. Adair:

Q. Mr. Langley testified at Jacksonville in June of this year in effect that the movement of logs other than the train load movement from Hines to Palatka, now consisted of a movement from certain specified points of origin to Perry, Florida and certain specified points of origin to Jacksonville, Florida, and from certain specified points of origin to Loughman, Florida. Are you prepared to say that that testimony is correct or incorrect as to whether or not the movement—I am not talking about since the first of January but I am talking about the movement that was made when Mr. Langley testified.

A. I gave you in my exhibit No. 128 the actual movement of logs between those points on our line in Florida for the period from February 1, 1931 to June 30, 1931.

Q. I understand that. You did not give the dates of the movement. I wanted to know whether or not you purport by that exhibit to contradict Mr. Langley's statement made in June?

A. Not at all. As to whether or not there is any pine logs which moved to Jacksonville, Florida (Tes. p. 1509), or to Perry, Florida, or to Palatka, Florida or to Loughman, Florida, at any time during that period, or whether there

are any pine logs moving now at any of those four points of destination, No; I have not dealt with it from the standpoint of pine versus cypress, for instance. I do not know whether or not any of those logs shown on my exhibit No. 128 there are pine logs. I do not know the extent of the pine log movement over the Atlantic Coast Line Railroad Company in Florida at the present time. None of our statistics make any difference between pine logs and cypress logs. My testimony here with respect to the areas [fol. 1345] and the like were confined to pine in respect to the number of acres and the number of feet standing. I did not understand Mr. Fleishel, Mr. Cummer and Mr. Foley to assert there are only 2,800,000,000 feet of pine timber standing in Florida. I did not indicate in my present testimony today (Tes. p. 1510) that I had done so.

Q. As a matter of fact, they testified there was a considerable quantity of pine timber standing in large tracts owned by specified owners in the Southern portion of the State?

A. I think you misunderstood me. The 2,800,000,000 is the amount of timber that was testified as being owned by the four companies. They did testify as to the holdings of other smaller companies, with the tendency to show it was small and immaterial. That did not relate to northern Florida primarily, it covered the whole state of Florida.

Q. Mr. Perrin, please state what, if any, study you have made of this log rate as such? What study have you made of it to determine whether or not it is a remunerative rate or not a remunerative rate?

A. Why, I can only refer you to our cost studies made by our accounting officers. I suppose your inquiry runs to the general question as to whether the expense of handling logs is stated in the accountants' testimony.

Q. No. My question runs as to how and upon what you base your testimony that the Atlantic Coast Line Railroad is losing money on this rate. I understood you to testify to that effect today (Tes. p. 1511).

[fol. 1346] A. Yes, sir, that is what I testified to. That is based upon the study of our accounting department as to the cost of the service and my own knowledge of the fact as to how much revenue we get from it. That is the basis for my testimony in evidence in this case. I have talked about the studies of our accounting department, I refer to

those studies which are already on file in this case by Mr. Lamb. I refer to my knowledge of our own statistics. I know what logs we have handled and I know how much we get for it. That is the evidence upon which I base that opinion in this record here. It is in the record. It is up those two things, both of which are in the record that I base my statement that we are losing money based upon this rate (Tes. p. 1512).

Q. What difference, if any, will result in the revenues which the Atlantic Coast Line Railroad may derive from the transportation of lumber if the Cummer scale is in effect as distinguished from some other scale of rates being in effect for the transportation of logs. The question does not run to the point of relationship between log rates and lumber rates. I want to know if, for the future there will be any difference in your revenue derived from lumber if the Cummer scale is in effect and your revenue derived from lumber if some other scale of rates for logs is in effect?

A. Why, that is easily answered. The lumber rates have no relationship to the log rates. I have testified at some length in respect to the lumber revenue received from the Brooks-Scanlon Corporation and from the Putnam Lumber Company during the calendar year 1930. I cannot tell you how much revenue was derived from the lumber shipped by those respective companies in any preceding year (Tes. p. 1513). I have not figured on that. That is [fol. 1347] based upon a special compilation for 1930. It is a fact that when the Putnam Lumber Company and the Brooks-Scanlon Company were located at Milldale and at Eastport, that they were located upon the tracks of the Atlantic Coast Line Railroad Company. It is not a fact that under our service log train contract with them they were required by the terms of that to favor us upon all outbound movement that they could, all other things being equal.

Q. You had no arrangement with them with respect to their favoring you with the outbound movement whenever they could honestly and honorably do so?

A. Well, I think that might have been the case as to the rail movements but at Valdosta I tried to find the records of it. We will not delay the hearing to do so. I testified that we got less than 15 per cent of the Brooks-Scanlon out-

put of its Eastport mill. The purpose in carrying the logs from Eastport (Tes. p. 1514) to Jacksonville for those two companies, their purpose was to get water transportation and our handling of lumber from either one of those mills under those conditions was very limited. I mean to say more than 85 per cent of that output moved by water or moved by water, since 1925. Yes, sir; I gave you statistics at the first hearing. I gave you the number of cars of lumber that were produced and the number of cars of logs handled and figured out the number of cars that were handled. There were less than 15 per cent of the total.

Q. That does not mean that 85 per cent went by water?

A. They did not go by the Atlantic Coast Line. They might have gone by some other carrier that was in the southern group, but I was speaking only as to lumber that we handled.

[fol. 1348] Q. I call your attention to the fact there seems to be a clause similar to the one to which I referred in my question with respect to favoring your company in the 8th paragraph, at the top of the page, 261 of the printed record, in that connection.

A. The fact is we did not get any more than 15 per cent of the output.

Q. Mr. Perrin, I was not entirely clear on how you arrived at your estimate on how many logs you were going to ship in the future out of this stand of timber that is said to be shown (Tes. p. 1515) by these two pamphlets that you have got in the record here?

A. I do not try to say that we would handle any particular amount of logs, but I said this: At least half, which is conservative, of the standing timber that was within a reasonable distance of the Atlantic Coast Line and if in the future we should be called upon to handle 40 per cent of the logs, then we would earn so much money under those two scales, that is assuming that all of the logs in the future are going to be transported by common carrier.

Q. But do you not know it to be a fact that all of the larger pine mills have discontinued transportation of pine logs from the timber to their mill?

A. Mr. Adair you are speaking from the standpoint of the large saw mill operator only. There is a distinction between your viewpoint in this matter, and ours. We today have no exceedingly large operators in the other states.

The extent to which the large operators disappear will increase the percentage of logs that the railroads will handle. That has been true in the other states because the larger operator locates in his timber and he does not have to have railroad transportation; but when it resolves itself down [fol. 1349] to a situation where it is a small operator then with the exception of a few cars right around him which generally are very small in number, he has to go out and haul logs in there by railroad (Tes. p. 1516). I do not know whether or not there are any pine logs moving over the Atlantic Coast Line Railroad at the present time or has any pine log movement taken place over the Atlantic Coast Line Railroad within the past several months, in Florida. It may be; I am not saying. I do not know; but I will say this, that the movement of logs of any kind throughout our whole system is at a woefully low volume right now. As to when it again will move in substantial volume, I wish I could say (Tes. p. 1517). I cannot say where the log traffic will move in any substantial volume in the future, but if it does not move for a long time when it does start to move there will be more logs than ever before. I base that statement upon the Southern Association study. There will be more logs in the woods.

Q. You do not mean to prognosticate that more people are going to haul them by common carrier.

Examiner Hoy: I think it is clear that his answers are based upon assumptions and hopes. I do not see that there is much reason to pursue that further.

Mr. Adair: I want to make that the answer was based upon assumptions.

The Witness: And of course, upon our experience in other situations where the situations have been alike.

Examiner Hoy: You cannot say whether there is any particular per cent or any will go to you?

A. Oh, yes.

[fol. 1350] Examiner Hoy: You just hope it will in the future.

Redirect examination (Tes. p. 1518):

I said our compilation was based upon the assumption all of the logs would in the future be carried by railroad. It is a fact that in making that 40 per cent computation

I allowed a pretty substantial margin to take care of any movement that may go by trucks or otherwise, and I also made a conservative estimate in saying that not less than 50 per cent is tributary to the Atlantic Coast Line. Conservatively, yes, I said 50 per cent is tributary to us but in the interest of conservatism we would assume not more than 40 per cent of the total moved by us, and the other 10 per cent would move in some other way from the forest to the mill (Tes. p. 1519).

Mr. Gutheim: We now offer, Mr. Examiner in rebuttal of the testimony on behalf of the defendants and with particular reference to the compilation by the defendants of the out-of-pocket cost and total cost on the basis of system averages, the testimony of Witness W. D. McCaig and G. H. Parker, in Docket No. 16939, Railroad Commissioners of Florida vs. Aberdeen and Rock Rish Railroad Company, et al., wherein the Atlantic Coast Line Railroad Company was one of the defendants. We offer particularly the testimony embraced in the transcript pages, as follows:

Witness W. D. McCaig, pages 1220 to 1221, also pages 1262 to 1270, both inclusive.

Witness G. H. Parker, pages 1612 to 1627, both inclusive; also page 1702.

We request that your Honor allow us the usual time of about ten days in which to have these particular pages [fol. 1351] from the record certificated by the Secretary of the Commission and we will submit them in that manner with copies to all parties.

Examiner Hoy: It is agreed then that pages 1220 and 1221 and 1262 to 1270, both inclusive, and 1612 to 1627, both inclusive and 1702 of Docket 16939 are received as a part of the record in this proceeding without objection by defendants.

Mr. Gwathmey: No objection (Tes. p. 1520).

GEORGE W. LAMB was recalled as a witness on behalf of the defendants.

Direct examination.

A. Exhibit No. 101, filed by Mr. Pettijohn, is statement of property investment and operating income for the Atlantic Coast Line Railroad Company, the Florida East Coast and Seaboard Air Line, for the calendar years 1921 to 1930, inclusive.

Mr. Pettijohn, in basing his comparison on the year 1921 versus 1930: You will note under the year 1921, line 29, net railway operating income, you will observe these figures are $8,193,040.50, while the very next year, 1922, they jumped to $21,346,199.43, or 2.7 times the net railway operating income for 1921. You will also note that for 1930, line 29, the figures are $14,098,496.45. If Mr. Pettijohn had used any year other than 1921 the results shown in the last column would have indicated a decrease instead of an increase in most cases. On page 13 of the Atlantic Coast Line Railroad Company's annual (Tes. p. 1521) report for the year ended December 31, 1921, the following appears under the head of "General Remarks": "Operating revenues during the year ended December 31, 1921, show a decrease of $7,391,187.88, or approximately 10 per cent as [fol. 4332] compared with the previous year, only a small part of which was due to reduction in freight rates. There was a decrease of $4,144,802, or 23.92 per cent in the number of tons hauled and a decrease of $3,152,991, or 31.55 per cent in the number of revenue passengers carried."

For the purpose of demonstrating the facts I have prepared an exhibit which I will offer as Exhibit No. 131, and have reproduced Mr. Pettijohn's Exhibit No. 101 for the years 1922, 1926 and 1930, and have shown the increase or decrease, 1930 versus 1922 and 1930 versus 1926. Taking the year 1922 you will note that instead of an increase of 1.03 per cent in the total operating revenues, line 9, there is a decrease of 4.23 per cent. Operating expenses are substantially the same in 1922 and 1930, but there is an increase in the maintenance of way and structures expense of 17.11 per cent as compared with 4.59 per cent when comparing 1930 with 1921. Instead of being a decrease of 9.30 per cent in operating ratio, there is an increase of 4.69 per cent with an increase of 43 per cent in railway tax accruals and a decrease in net railway operating income, line 29, of 33.95 per cent instead of an increase as shown by Mr. Pettijohn of 72.08 per cent (Tes. p. 1522).

Another defect in this exhibit as shown by line 2 of property investment in roads and equipment, 701. Therefore, as Mr. Pettijohn stated on his direct testimony he has omitted from his investment in road and equipment the value of all lines operated under lease or contract by the three roads, but he has included in the income account, operating expenses, and so forth, that results from the operation over these properties. In the case of the Atlantic Coast Line Railroad for the year 1930, the value of these [fol. 1353] properties exceeded $12,000,000 and I am positive that for the Seaboard Air Line Railroad there would be substantial sums to be added, which would greatly increase the investment in road and equipment as shown by Mr. Pettijohn from which the net railway operating income is derived. 1921 was the first year after the return of the railroads from Federal Control. I intended to call attention to that. 1921 reflects the chaotic conditions experienced by the railroads immediately after being turned back to their owners, following our experience with Government operation as a war measure. I do not mean immediately after being returned; they were turned back 10 months before 1921, very closely succeeding their return.

Exhibit No. 102, filed by Mr. Pettijohn is a statement by the Atlantic Coast Line Railroad Company property investment (Tes. p. 1523) and operating income for the calendar years 1921 to 1930, inclusive. Again Mr. Pettijohn has, as stated by him, omitted from investment in road and equipment the value of lines operated under lease or contract, whose operations are reflected in the net railway operating income to the Atlantic Coast Line Railroad Company as shown by his exhibit No. 102. Mr. Pettijohn has again compared 1930 with 1921, and it will be noted that had any other year been used for comparative purposes the figures in 1930 for net railway operating income would have been shown decreased instead of an increase of 43.69 per cent, the figures for 1921, line 29, for net railway operating income, being $5,039,567.33; in 1922, $14,416,367.73; the lowest other than 1930 being in 1928, $9,[illegible]95,363.97, while 1930 shows $7,241,303.64. Mr. Pettijohn has filed his Exhibit 103, statement of the Atlantic Coast Line Railroad Company property investment and operating revenues in [fol. 1354] the State of Florida. Again Mr. Pettijohn used 1921 versus 1930 and my previous comment with

respect to 1921 also applied to this exhibit. Investment in road and equipment shown in the first line of the statement omits value of all lines operated under lease or contract by the Coast Line whose revenues are included in the figures following.

Mr. Pettijohn: Where you said "excludes values" you mean the investment?

The Witness: The investment—Account 701.

Mr. Pettijohn: No (Tes. p. 1524).

The Witness: It does not include the investment of the leased line companies or lines operated under contract whose revenues are included in his statement.

I will file as part of my testimony Exhibit 132, showing the figures drawn by Mr. Pettijohn's exhibit for the years 1922, 1926 and 1930. The exhibit will speak for itself.

Examiner Hoy: Well, the investment in road and equipment figures are not drawn from Mr. Pettijohn's Exhibit No. 103, are they?

A. No, I should modify that statement. I have added the lines operated under lease and contract whose earnings are included in Atlantic Coast Line Railroad returns, as indicated by the foot-note at the bottom of the exhibit.

Referring to Mr. Pettijohn's Exhibit No. 106 for the Atlantic Coast Line Railroad, statement showing the total intrastate and interstate tons of revenue freight handled on the system and within the state of Florida, calendar years 1926 to 1930, inclusive. The principal error in this exhibit is Mr. Pettijohn's item under each of the years 1927 to 1930, inclusive, reading "Percentage of total de- [fol. 1355] crease". For example, in column C, the total of Florida for 1927 is shown as 15.27 per cent. This figure is obtained by dividing the decrease of 1927 versus 1926, 4,128,153 by 27,025,422, column B for 1926. This same method is used in obtaining the percentage of total decrease for each of the years 1927 to 1930, inclusive. This (Tes. p. 1525) is a misleading statement because, as you will note in column B, the total system decrease, 1927 versus 1926, under the year 1927 is 3,890,926 tons; decrease of Florida 1926, under 1927, is 4,128,153. Therefore, the percentage of total decrease is obtained by dividing 4,128,153 by 3,890,926, which produces a percentage of 106.10 instead of 15.27. In other words, there must have been an increase

in the system outside of Florida because the decrease in Florida exceeds the total system decrease, including Florida, and instead of reading 15.27 per cent the percentage total decrease in 1927 should read 106.10. The same erroneous statement is made in all of the other years. For example, in 1928 Mr. Pettijohn shows percentage of total decrease, total Florida, column B, as 24 per cent. This should be 97.98 per cent, the decrease of 1928 versus 1926 for the system, column B, being 6,622,500 while for Florida column C, the decrease was 6,488,561. Without reading any more examples, that same method of calculation was followed by Mr. Pettijohn throughout the exhibit.

Mr. Pettijohn: In fact, isn't that total decrease all computed on the decrease from the total system 1926?. That is what the exhibit purports to show, does *not* not?

The Witness: But your comparison, when you have a decrease for 1927 of 3,890,926, as shown in Column B and a decrease for (Tes. p. 1526) Florida of 4,128,153, your decrease of the system total is not 15.28——

[fol. 1356] Mr. Pettijohn: Now, let us see. Take under Column C, decrease of 4,128,152 tons. That represents a decrease of 15.27 per cent of the total tonnage handled on the system, does it not?

The Witness: 727,025.

Mr. Pettijohn: That is exactly what it was intended to show, was it not?

The Witness: I do not know what it was intended to show, but if the system decreased 3,890,000 which includes Florida, and Florida decreased 3,128,000 it seems to be axiomatic that the decrease in Florida was greater than the decrease on the system.

Mr. Pettijohn: Exactly. My percentage showed that the system decrease was 14.4 per cent, and that the decrease in Florida alone was 15 per cent of the system.

The Witness: Yes, sir. Looking at column B under the year 1927, under the head of "Percentage of Total Decrease 14.4 per cent" that means a percentage decrease from the figure at the top of column B (Tes. p. 1527). I have taken the total system tonnage. Mr. Pettijohn took then the total system tonnage under column B and found out how much that had been reduced for the total system. In column C, at the top of the column is total Florida tonnage. When he took a reduction he did not take the

relation borne between the Florida tonnage at all but took the reduction between the Florida tonnage and the total system. Those figures 14.4 in column B, and 15.27 in column C are both percentage of total decrease. The 15.27 is not a percentage of total decrease but a percentage of the total system tonnage as shown at the top of column B.

By Mr. Pettijohn:

Q. I understood you, in answer to a question of your attorney, to say I did not show the percentage of Florida decrease. Does not the 27.32 per cent represent the per- [fol. 1357] centage of Florida decrease right above the 15.27?

A. It certainly does. I did not understand him to ask that. I do not think he raised a question on that, so far as I recall his question, but the figures immediately (Tes. p. 1528) above the 15.27. I just want to show one other percentage which is particularly outstanding, in column E, intrastate Florida, 1927, which shows a percentage of total decrease as 5.54, where, as a matter of fact of the total intrastate decrease shown in column D, it was 111.25 per cent.

Examiner Hoy: This 5.54 shown in column E, as I understand it, the amount shown two lines above that is 5.54 per cent of the first figure in column D, 13,069,803; is that right?

Mr. Pettijohn: No, it is 5.54 per cent of the first figure shown in column B, 27,000,000.

The Witness: In other words, he used 27,000,000 as the divisor in each case. I will now refer to Mr. Pettijohn's testimony with reference to Exhibit No. 79. Mr. Pettijohn made some comments relative to Exhibit No. 79 as to the assignment of revenue expenses to Florida. Dealing first with the apportionment of interstate revenue to Florida, we make the distribution of this revenue or charges collected on the basis of a mileage pro-rate through the states traversed by the individual (Tes. p. 1529) shipments, based on the published tariff rates. In making this division we cannot tell the construction of each individual published rate. It is impracticable to make the endless investigation necessary to develop just how each rate is constructed; in most cases impossible.

Operating Expenses: Let us assume, for the sake of [fol. 1358] illustration, that we have through our method of handling the division of interstate revenue credited the State of Florida with a smaller proportion than Mr. Pettijohn claims it is entitled to. Under the method of assigning operating expenses to Florida on a revenue basis, we therefore debit or charge to Florida a correspondingly smaller proportion of operating expenses. We feel that Florida has been benefited rather than injured by our method. For example, Florida, as stated by Mr. Pettijohn, is an originating and terminating state. That is to say, every ton of interstate traffic originating or terminating in Florida has a terminal expense, which expense is spread over a short haul compared to the average haul of the system. There is no interstate traffic in Florida which originates in any other State, passes through Florida and terminates in another state. The peninsula shape of the State of Florida precludes this. On the other hand, every ton of interstate freight originating in Florida destined to the east via the Richmond gateway has terminal costs in Florida, but no other terminal delivery cost on the balance of the Atlantic Coast Line. The same is true of every ton originating beyond Richmond, Virginia, destined to (Tes. p. 1530) Florida. There is a terminal cost in Florida, but no originating cost on the balance of the system, the traffic in both of the illustrations being turned over to our connections or received from our connections. The same applies to all other interstate traffic received from any of our connections consigned to Florida or vice versa. There is no so-called overhead traffic in the State of Florida.

Mr. Pettijohn has testified as to the expensive cost in connection with originating perishable traffic. Taking all of these features, as well as others, and the further fact [fol. 1359] that the cost per gross ton mile and per loaded and empty car mile on the particular division are so much greater as measured by the out-of-pocket cost than the balance of the system, it is our opinion that Florida has not been injured by our method of apportioning revenues and operating expenses.

Another feature is the service performed by the balance of the A. C. L. system in getting coal and supplies to Florida. A very substantial amount of coal comes from either the Alabama fields or from western Virginia and

West Virginia fields. In either case the haul over the system is substantial, for which no charge is made to the State of Florida. Florida performs no like service for the other parts of the system. Coal is charged to the State of Florida at the average system cost, no additional costs being added to the Florida coal for the extra service performed by the balance of the system for the benefit of Florida. It is my opinion that the operating ratio (Tes. p. 1531) in Florida would be higher than the system if we could absolutely assign all operating expenses directly to Florida.

Referring to my Exhibit No. 84, on which Mr. Pettijohn commented. There seems to be some misunderstanding on Mr. Pettijohn's part as to the figures shown on my Exhibit 84 and referred to in his Exhibit 109. Possibly I did not make it clear on my direct testimony, but the so-called haulage expenses are not to be considered as the technically known haulage and non-haulage expenses, which would be derived under Dr. Lorenz' formula in Docket 17,000, nor were they intended to be. What I attempted to do upon my Exhibit No. 84 was to eliminate from the total freight operating expenses sufficient accounts which would, in my opinion, give costs below the [fol. 1360] actual costs of handling logs or any other commodity. I have eliminated all yard accounts, regardless of whether or not they applied to the log service. Unquestionably some of these expenses are properly attributable to handling logs. Other accounts were also eliminated. But it should be distinctly understood that no effort was made to develop what are technically known as haulage and non-haulage expenses. By the elimination of all yard accounts and certain other accounts I felt I had established a minimum from which we could build up some figure or figures which would give the Commission some idea as to where the costs lay. When Mr. Pettijohn said "I find the yard proportion of total freight expense $10,764,146.94 as against $4,550,039, deducted by Witness Lamb for yard expenses" he, of course, means all terminal expenses, (Tes. p. 1532) under the technically haulage and non-haulage formula and not yard expenses, because the $4,550,939, represents all the freight yard expenses. Mr. Pettijohn, I believe, agreed to this statement under cross-examination this morning.

Relative to the cost of handling logs, commented on by Mr. Pettijohn: He states before attempting to determine the amount of terminal expenses applicable to carload traffic it is customary to reduce the total freight operating expenses by eliminating therefrom the station platform expenses of handling less carload freight, and so forth. Perhaps he overlooked the fact that all such expenses were eliminated in Account 373—Station Employees, in column A of Exhibit 86, and so forth.

It will be noted from Mr. Pettijohn's Exhibit 109 for those accounts there was eliminated $3,281,352.20.

[fol. 1361] With reference to the extraordinary service given to handling perishables, we all know that one of the large items of expense in connection with perishable traffic is getting the traffic through the terminals as expeditiously as possible. All of this expense has been eliminated by me through the elimination of all yard expense.

With reference to the less carload freight being handled on local freight, logs, with the exception of the Hines to Palatka movement, are handled on local freight trains and the same crews handle logs that handle l. c. l. and the local trains have to pick up logs in single car lots just as perishable cars are picked up on branch lines. Mr. Pettijohn testified that (Tes. p. 1533) perishable traffic was held in terminals without waiting for a full loading of the locomotive.

Mr. Pettijohn: Was not held.

The Witness: Perishable traffic is not held until there is sufficient tonnage to give the locomotive its full tonnage rating. This is true. But other freight is added to fill out the tonnage if it be necessary to forward the train before the full tonnage of perishables is received. The greater amount of switching per car for perishables which Mr. Pettijohn referred to has already been eliminated in column A of my Exhibit. Logs are handled in single car shipments like all other commodities and only in the Hines to Palatka business in train loads.

Mr. Pettijohn stated that the only switching in connection with logs is at Palatka. This only applies to the Hines-Palatka movement. As testified by Mr. Langley, superintendent of the A. C. L. at Jacksonville hearing, the cars are switched and weighed at Palatka and trains cut [fol. 1362] apart to be weighed. Page 1134 of the record.

At page 1141 of the record, Mr. Langley testified that terminal service is performed at practically all terminals where the log movement passes through and then gives a list of the terminals. I quite agree with Mr. Pettijohn that the extent of the unit costs of the third division by the application of the percentage 35.027 does not produce the total haulage cost but produces the haulage costs less out-of-pocket (Tes. p. 1534) costs for haulage in column A of my exhibit. For this and other reasons the figures in column A, of Exhibit 86, etc., are understated. To include all of the out-of-pocket expenses the 25.9405 per cent should be used in expanding the haulage costs and the 19.06 per cent in expanding the total freight costs instead of 35.027 and 23.549.

As frequently stated by me in my present testimony, it is my opinion that the figures reflected in column A greatly understate the cost of handling logs and the figures in column B possibly overstate the costs by reason of inclusion of certain expenses which may not be attributable to handling logs. In column B the various expenses that Mr. Pettijohn referred to, are included excepting that I have not shown the total expenses but the expenses less the haulage expense. I would therefore say that column B as shown on my exhibit still overstates the expenses, having used the wrong percentage. I think there are expenses in column B which are not applicable to the log traffic.

Mr. Pettijohn referred to the assignment of taxes, or the method of assigning taxes used by me. On my direct testi- [fol. 1363] mony at Jacksonville I stated I had deliberately adopted Mr. Pettijohn's basis for assigning taxes. If you will refer to Exhibit No. 39, filed by Witness Pettijohn pages 3 and 4 of four pages which is reproduced—(Tes. p. 1535) you will find on page 4 that Mr. Pettijohn shows the following: "Line 247, grand total railway operating expenses, $19,406,536.32 (page 312, schedule 350" and immediately following that "line 5, Florida, $1,427,529.86." This refers to the 5th item on page 3 of the 4 page exhibit, giving the amount of taxes for the State of Florida. Immediately following he shows the per cent 7.471. It was because of Mr. Pettijohn's using this basis in this same case at one of the original hearings that I adopted it in assigning taxes on my Exhibit 86 and so forth. Taxes are an overhead item, just as return on investment, and if it is proper to

assign taxes in relation of operating expenses it seems equally logical to assign the return on investment on the same basis.

Mr. Pettijohn testified to what I assume he claims is an inconsistency in the gross ton mile cost in which he stated that for the year ended December 31, 1929, he found that the average cost per gross ton mile for the system was 3.1298 mills. There is no inconsistency in the average cost per gross ton mile for the system of 3.1298, as testified to by Mr. Pettijohn and the cost of 4.623 mills which would be reflected on Exhibit 86, if I had used 25.9405 per cent in expanding the haulage cost used instead of 35.027 per cent, because as testified to by me and as shown at page 1082 of the record, the ratio of (Tes. p. 1536) the third division out-of-pocket cost per thousand gross ton miles to the first and second division was 155.62. If we should raise the 3.1298 mills cost per gross ton mile for the system [fol. 1364] as testified to by Mr. Pettijohn for the year ended December 31, 1929, by multiplying it by 155.26 per cent, we would produce a cost of 4.86666, which would seem to support the 4.623 which would be obtained by raising the out-of-pocket cost as indicated.

I was asked yesterday to obtain the mileage in Florida other than the third division. I have received a telegram from Mr. W. D. McCaig, Comptroller of the Atlantic Coast Line, which I will read giving the information requested:

"Miles in Florida other than third division: Georgia State line to Jacksonville 36.90 miles; Georgia State line to High Springs 67.95 miles; Georgia State line to River Junction 2.52 miles; Lake City branch 18.97 miles; total 126.34 miles." That is the information you wanted.

The amount of loss and damage on the system is approximately 2 per cent. I cannot give the exact figures. As shown by Mr. Pettijohn's Exhibit 109, loss and damage freight was $581,727.36. The total amount treated as haulage (Tes. p. 1537) expenses, as shown on the third sheet of Mr. Pettijohn's exhibit is $26,701,014.07 or approximately 2 per cent.

Exhibit 133 is a statement showing the consist of log trains operating between Hines and Palatka on the Atlantic Coast Line Railroad for the month of November, 1930, and at the bottom is added the out-of-pocket expenses of these trains. The information for Account 392, train and en-

ginemen and 401, trainmen, was furnished me by Supt. Langley of the third division. The other information under out-of-pocket expenses was furnished by the superintendent of motive power. This is the information that is submitted in response to a request made by the interveners [fol. 1365] at the previous hearing. I have only undertaken to give the figures for the month of November, 1930, instead of for each month of 1930. I found that it was quite a task to get up the information. I noticed from the original transcript of the record that they called for the information for one month and I requested it originally for the one month. It was not until some time later that on reading the last page of the transcript of the record I (Tes. p. 1538) found they wanted it for a year. I made a request for the information for a year and was informed that it would require a large amount of labor and in connection with the car accountant it would be necessary to put on one or two additional clerks and under our present operating conditions we could not feel that the expense was justified; and further, I went to the car accountant and some other sources and found that the month of November was fairly representative of the operations for the year, and, therefore, selected November, 1930. This exhibit shows there were handled during the month of November 490 loaded cars of logs. I have made a study or examination to determine how that compares with the average for other months during the year. It is approximately the same.

Mr. Gwathmey: Now, Mr. Examiner, I believe I stated this morning we would like to tender this exhibit and ask whether, under the circumstances the gentlemen on the other side desire to insist upon a separate showing for each month than November. If they do, we will undertake to furnish it.

Mr. Pettijohn: It is your position that this is a typical statement of operations of the log trains between Hines and Palatka? (Tes. p. 1539.)

[fol. 1366] A. Yes, sir; I think it is fairly representative of any log train you would get.

Mr. Pettijohn: We will not except to that.

Examiner Hoy: Exhibits 131 to 133, inclusive are accepted.

Mr. Pettijohn: We do not admit the accuracy of all the figures in accepting this in lieu of what is demanded.

Examiner Hoy: No one admits the accuracy of figures in some one else's exhibit.

Mr. Pettijohn: I want to direct your attention to the second item under the out-of-pocket expense [illegible] for train locomotives. This item, as you will note, represents twice as much as the train expenses, train and enginemen's expense, under Account 392, whereas in your testimony on page 1101 of the record you show trainmen expense for the trains of the third division to be $497,364.58 and fuel for locomotives to be $606,920.94. I will ask you to explain how it happens that the fuel in connection with the movement of log trains is so much higher compared to the train expense than it is in the third division as a whole?

A. I am unable to explain that apparent discrepancy. As (Tes. p. 1540) just explained by me, these figures were furnished by our superintendent of motive power. I will be very glad to investigate that figure and if there is any way to advise the record or state for the record if there is any correction to be made to make it.

Mr. Pettijohn: We would like to have that done.

Examiner Hoy: If you find your exhibit is incorrect, you can file a corrected exhibit within 10 or 15 days; probably within 10 days you could file it.

[fol. 1367] Cross-examination:

A. I use the same average cost per ton on all coal that is consumed in Florida that I use on the system as a whole. In our charges to Florida we charge out coal to the State of Florida on the average system cost, regardless of the fact that a very large amount of service is performed by other sections of the system for the benefit of Florida which is not compensated by similar services in Florida.

Q. In other words, then the average cost per ton of coal consumed, is calculated for the system as a whole and then the average cost applies to the coal consumed at the different 1541 coaling stations irrespective of what the actual service may be with respect to the coal furnished at such stations?

A. I think you made a mistake in your question. The average cost of the coal purchased not consumed.

Q. Well, then, in that event the only difference between the cost of coal consumed in Florida and the cost of coal consumed on the system as a whole would be the difference

which would be due to the loading and unloading of coal in tenders in Florida as compared to the system as a whole?

A. I do not know that I can definitely just say what the conditions are on the third division as to the handling of the coal.

Q. Whatever variance there would be of individual handling at the different coal stations would reflect the major portion of it?

A. I think that would represent the bulk of it. Referring to exhibit 131 and my criticism of your comparison of the years 1921 and 1930, it is true that the operations in 1921 were sub-normal rather than abnormal.

[fol. 1368] Q. Therefore, any comparison of 1921 and 1930 is a comparison of the same normal years?

A. No, I do not agree that that is a fair comparison because we are dealing with the present conditions not with ancient (Tes. p. 1542) history. I do not, in my opinion, believe there will ever be, at least for many years—as rapid a growth in Florida as they experienced up to about 1926, since which period there has been a decrease of business in Florida. If you compare 1921 to 1930, you are comparing practically the same revenues, total revenues, substantially the same revenues.

Q. Was it not the position of the carriers in 1921 or 1920, when the roads were returned, that they were returned in poor physical condition and they were in need of heavier maintenance than would ordinarily be necessary in order to rehabilitate them?

A. In some cases that was true; in other cases the reverse was true. As to whether the Atlantic Coast Line and the Seaboard Air Line Railroad made that claim in their settlement under Sections 204 and 209 of the Transportation Act, I do not know. I know in 1922 we expended $15,956,000 for maintenance of way and structures and $25,190,000 for maintenance of equipment; whereas, in 1921 we spent $17,865,000 for way and structures and $25,600,000 for maintenance of equipment. As to whether the railroads were given an increase under Ex Parte 74 in 1920, I do not remember the year. (Tes. p. 1543)

Examiner Hoy: The date of the increase was August 26, 1920, and the reduction July 1, 1922, except on agricultural products. Agricultural products about January, 1922 or in the spring.

A. As to whether there was a higher scale on commodi-
[fol. 1369] ties in 1921 and 1922 than there is at the present time, I do not know. Exhibit 79. As to whether there is a higher scale of rates in effect than there is in the balance of the south under class rates, I am not familiar with the rates in Florida.

Q. Now, as an accounting proposition if the rates to and from Florida included an arbitrary for a portion of the haul south of River Junction—Jacksonville line—should not that arbitrary be allocated to the Florida operation?

A. If it were readily possible to ascertain the amount on an absolute distribution perhaps that would be correct, but it is impossible and impracticable to develop, as I stated a while ago, the construction of every published rate. It is impracticable and the cost would be prohibitive.

Q. Perhaps. You did not mean to insinuate in commenting upon (Tes. p. 1544) your exhibit No. 84 and my exhibit 109 that all terminal expenses were ascertained by the formula which I used, did you?

A. No; I had not checked your formula at all. As I understood you to say this morning in your cross-examination that the $10,764,000 represented what is generally known as non-haulage expenses, which embrace yard expenses as well as other expenses not affected by the haulage of traffic. There is a certain terminal expense in connection with the operation of a train for its local business. If you were making a technical separation of your operating expenses between strictly haulage and non-haulage expenses we would classify the switching performed by the road locomotives as a terminal expense.

Q. You said that perishable freight was filled out with dead freight and I assume that you meant that the perish-
[fol. 1370] able locomotives were given full tonnage rating in Florida; is that correct?

A. To as nearly as possible the tonnage rating which they can handle and maintain their schedules. The point I wanted to bring out was from your testimony it might be inferred that, taking for illustration five cars of perishables, if they were ready for movement, and the engine could haul 50 cars, that they would move it with the five cars and, as an economical railroad operating policy, that would not be permitted. If there were five cars of perishables and the train had to leave (Tes. p. 1545) to maintain

delivery date, additional cars of other freight would be added.

Q. Do you or do you not know whether it is a fact that they do actually handle five cars of perishables in trains and bring them into the assembly yard?

A. In bringing cars to the assembly yards, I do not know of my own personal knowledge just how many are handled. I do know there have been exceptional cases where a few number of cars were handled in a train in order to maintain the schedule of delivery. I don't know what the average engine rating or what percentage of the average engine rating is given to locomotives from the assembly point in Florida to Jacksonville and the northern junction points, such as High Springs.

Q. Would you be surprised if it was 80 per cent of the engine rating that was utilized?

A. I would not form any opinion until I saw the figures and checked up on them.

Q. Now, you said that under your basis you thought that column A understated the cost and column B overstated the cost of handling logs and in answer to a question by me in cross-examination you still thought that that statement was correct, notwithstanding the fact that you [fol. 1371] had used the wrong percentages in expanding the costs. (Tes. p. 1546)

A. If the percentage, 25.9450, had been used, it would have brought into the figures in column A all of the haulage costs including out-of-pocket expenses, and in column B all expenses excluding the haulage costs.

Q. Well, take it this way: You say on Exhibit 86 that you have column A which shows a cost of 17.75 and that understates the cost; that column B, which shows a cost of 27.77 overstates the cost. If I understood you you further said that notwithstanding the fact that you had used the wrong percentages in expanding you still thought the same condition existed, that column A, as testified to, and column B, as testified to, understated and overstated respectively the costs?

A. That is true. As to what the costs would have been under column A if I had used the right percentage in expanding the costs, I have not got that worked out; no, I have not that figure.

Q. Well, if that figure increases column A costs from $18.75 to $25.23, and if the application of the correct per-

centage for expanding under column B increases the cost from 27.77 to 34.32, do you still say that the cost of handling that shipment would lie between 18.75 and 27.77?

A. I think I have reiterated very frequently that the costs in column A produced by me were deliberately produced with the (Tes. p. 1547) intention of getting a figure below ——

Examiner Hoy: I do not think you need to repeat all that again. You have got that in the record three or four times.

A. It would be somewhere between 18.75 and 34.32. I [fol. 1372] used the basis for taxes because I used it in the previous case. So that if you made a mistake I perpetuated it.

FRED PETTIJOHN was recalled as witness on behalf of the interveners.

Direct examination:

The Witness: In further support of my position that the (Tes. p. 1548) cost of all traffic in the State of Florida was not properly applicable to the log traffic or that the expansion of system costs were not applicable to the log traffic, if we take defendant's exhibit 133, I find that the total ton mile costs of handling logs is to be found by dividing 2,398.55 out-of-pocket cost, by the total gross ton miles, namely, 3,863,451. This produces an average cost per thousand gross ton miles on the log trains of 62.083 cents, as against 88.288 cents, which Witness Lamb testified as being the cost applicable to the third district. 88.288 cents is 42.2 per cent greater than 62.083 cents. It is, therefore, apparent by Exhibit 133 that the defendant has assigned to the cost of logs, even under this basis, 42.12 per cent greater expense than should be assigned.

Cross-examination:

A. The costs that I have produced of 62.083 represents the cost per gross ton mile for handling the log trains, Hines to Palatka, as developed from Lamb's exhibit 133,

but the 88.288 represents the gross ton mile cost on the third division. (Tes. p. 1549)

Q. You will admit, will you not, that the cost of handling logs in single car lots, would be considerably in excess of handling them in solid train lots?

A. That would depend on what trains. If they were [fol. 1373] handled on trains as heavily loaded as these 25 trains on your exhibit 133 the costs should be the same. There is only one terminal expense attached to the movement of logs from Hines to Palatka.

Q. Mr. Langley, Superintendent of Terminals of the Coast Line, testified that on all of the other traffic than train lot movements Hines to Palatka, there was considerable terminal expense, that there was a switching in every terminal through which the traffic passed; is that not correct?

A. I think that is his testimony, but I do not agree to the correctness of it. As to whether I put my opinion against the opinion of the man in charge of the third division, yes, sir; or any other man that stated if you picked up a log intermediate between stations and set it out intermediate between stations that you would perform any switching service by yard crews. You cannot switch a car in a yard unless you move actually through a yard. I will admit in so far as cars moving through a yard and needing different classification in switching they get it, but I do not admit for a minute (Tes. p. 1550) that because a car is handled in single car lots that it necessarily is handled in a yard at all.

Q. If it is brought in from a branch line to one of the terminal points and handled in a local train and is diverted to another section, it requires the breaking up of that local train to classify the log car into another train, does it not?

A. If it goes through the yard there would be that expense.

Q. So there would be a great amount of expense in handling a single car lot than in a solid train movement?

A. Not necessarily as far as train expense is concerned. That would be true as to yard expense if it moved through a [fol. 1374] yard, yes, sir.

Examiner Hoy: The record in this proceeding is closed. (Tes. p. 1551)[1]

[fol. 1375] Jacksonville, Florida, November 21, 1932.

APPEARANCES:

No appearance for the complainant.

Same appearances for defendant, and intervenors on previous hearing, and also

F. C. Hillyer, Chamber of Commerce Bldg., Jacksonville, Florida, appearing for intervenor, F. S. Buffum Company, Incorporated (Tes. p. J-1439).

Exam. Hoy: Gentlemen, the Interstate Commerce Commission has set for further hearing at this time and place Docket No. 18364 Georgia Public Service Commission versus Atlantic Coast Line Railroad Company.

The scope of the further hearing is limited by the order of the Commission. The further hearing will be for the sole purpose of receiving evidence respecting any change in the rates on logs since the close of the last hearing in this case, the circumstances connected with, and the conditions which occasioned such changes; and whether such circumstances and conditions or any of them are present with respect to the Florida intrastate log rates on defendant Atlantic Coast Line. The proceeding was reopened upon petitions of intervening Florida log shippers, and the State of Florida, and the Florida Railroad Commission. I think the orderly procedure would be for these petitioners to proceed and show the changes in log rates upon which they rely; and then for the defendant to proceed and show the

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[1] Narrator's Note: The Washington hearing closed with pages 1551 of the record. The subsequent hearing was held in Jacksonville, November 21-22, 1932. Through error the transcript of the latter hearing commenced with page 1439. There is therefore a duplication of pages 1439 to 1551 inclusive. For convenience in numbering the duplicated pages of the later Jacksonville hearing have been numbered with the prefix "J" starting J-1439 to J-1551 inclusive. The J does not appear in the Commission's official transcript of these pages.

circumstances connected with and the conditions which occasioned such changes; and then for the Florida interests to continue and show whether such circumstances and conditions, or any of them, are present with respect to the Florida intrastate rates on logs (Tes. p. J-1442).

Mr. Turnbull: Mr. Examiner, as representing the Florida Railroad Commission I would like to reiterate the posi- [fol. 1376] tion that the Commission took at the outset of this hearing, so far as the jurisdiction of the Interstate Commerce Commission is concerned.

Exam. Hoy: I don't think it is necessary to do that Mr. Turnbull. That position is on the record very fully, and this reopening is for a limited purpose. I don't think it would help the record any to reiterate the position, unless you have changed it. If the Commission or the State of Florida has changed their position, why you may state so, but if it is the same, why the record shows your position, and that is sufficient, and it shows it very clearly (Tes. p. J-1444).

Mr. Turnbull: It is the same that we have formerly and previously stated, but any testimony that we introduce here I want it understood that it was introduced with this reservation.

Exam. Hoy: It will be understood, Mr. Turnbull.

Mr. Adair: We make the same statement on behalf of the Florida intervenors, and with the same reservation (Tes. p. J-1445).

E. C. Green, called as a witness, being duly sworn, testified as follows:

Direct examination (Tes. p. J-1446):

My name is E. C. Green, address, Chamber of Commerce Building, Jacksonville, Florida, Manager, Jacksonville Traffic Bureau. I have had some twenty years experience in traffic and rate matters in the employ of railroads and of the Jacksonville Traffic Bureau. At the request of the [fol. 1377] F. S. Buffum Company, which has recently intervened in this proceeding, I have made an investigation into the transportation rates on logs, especially in connection with the new tariffs which have been filed since the Commission's decision of July 5, 1932.

Mr. Adair: Mr. Examiner, we offer in evidence photostatic copies of various tariffs on file with the Commission, which have been certified to by the Secretary of the Commission. We ask that they be received in evidence, one exhibit. I have a particular exhibit coming on later in which they are described; in which reference is made to them in particular.

Exam. Hoy: You let them inspect these, and offer them later (Tes. p. J-1447).

A. I have made considerable study of these tariffs to determine their application and method of use. These tariffs cover the transportation of logs on some twenty-one railroads, applicable for both interstate and intrastate traffic, and apply from logging areas into lumber mills from and to the states of Alabama, Florida, Georgia, Mississippi, Louisiana, Tennessee, Kentucky, Arkansas, Missouri, Oklahoma, and Texas. A map has been prepared indicating the lines of railroad upon which the new reduced rates apply in the Southern Classification territory, that is, Southern States east of the Mississippi River, in the States of Missouri, Arkansas, Oklahoma, Louisiana, and Texas. The Southwestern tariffs cover a great many miles of railroad in the Southwestern States west of the Mississippi River, and a map prepared in colors for this purpose would [fol. 1378] show that practically all of the timbered areas of the Southwestern region are covered by the new reduced rates on logs. The map which I have prepared to accompany my testimony indicates that there has been a very general—— (Test. p. J-1448)

Mr. Gwathmey: If the Examiner please, I very much dislike to interrupt. I have no objection to the witness undertaking to testify as to what his understanding of these tariffs is; however the tariffs themselves are the best evidence of what they show. Now I would like to object to the witness undertaking to say anything in explanation of these tariffs of which he has not personal knowledge. For instance the witness has just said that the tariffs apply over the territory in the Southwest, which constitutes the principal lumber producing areas in that section. I object to that statement unless the witness first shows that he knows what the lumber-producing areas in the Southwest are.

Exam. Hoy: That objection is sustained.

A. (continued) I will correct that testimony to read in this way: The Southwestern tariffs cover a great many miles of railroad in the Southwestern States west of the Mississippi River, and a map prepared in colors for this purpose shows that the (Tes. p. J-1449) rates on the Southwestern railroads in the Southwestern region cover a great many new reduced rates on logs. The map which I have prepared to accompany my testimony indicates that there has been a very general and widespread application of the new reduced rates throughout the timber areas in the Southern States, east of the Mississippi River. New tariffs have been coming in constantly for a period of over several months, covering reduced rates on logs, and it has been [fol. 1379] very difficult to check up on each one of these tariffs and figure out the exact application of the new rates on each of the lines and branch lines over which the new tariffs apply. This examination warrants the general statement that there has been a very widespread and general reduction in rates on logs between mill points in the South and Southwest. I will next explain the application of the new rates, grouping the rates of certain carriers as best I can in the interest of brevity where the reduced rates are similar. For this purpose I shall discuss first quite a large number of tariffs which carry practically the same reduced rates on logs in the States of Mississippi, Alabama, and parts of Tennessee, Georgia, and West Florida. Thereafter I shall discuss another class of tariffs which apply exclusively inbound to Chattanooga, Tennessee, and Gadsden, Alabama. And thirdly I shall discuss a number of new tariffs which apply to specific designated lumber mill points located mostly within the State (Tes. p. J-1450) of Mississippi. We offer in evidence list of tariffs that show opposite the tariff designations the application of the new reduced rates on logs shown in those tariffs. These exhibits that I have there before me were prepared by me.

Exam. Hoy: It will be received as Exhibit 134.

A. (continued) In all of the tariffs enumerated on this exhibit 134, the scale commences at $12.00 per car, and runs up to $22.50 per car. This exhibit, Mr. Examiner, shows the names of the railroads, the I. C. C. tariff numbers, the supplement numbers, and the application of the

scale against each tariff. I now offer the next division of these exhibits.

[fol. 1380] Exam. Hoy: 135. The exhibit will be received (Tes. p. J-1451).

A. (continued) In this exhibit 135 the tariffs enumerated are applicable only to Chattanooga, Tennessee, and to Gadsden, Alabama. In these tariffs the scale commences at $12.50 per car and runs up to $20.00 per car. I now offer the third division of these exhibits, which will be Exhibit 136. In Exhibit 136 is shown the tariffs which are applicable to specific mill points located almost exclusively in the State of Mississippi. In this exhibit a scale of rates is published commencing with $12.00 per car and ending at $20.00 per car for 100 miles. I now offer the fourth division of this exhibit, which is Exhibit 137.

Exam. Hoy: The exhibit will be received.

A. In Exhibit 137 it shows the tariffs applying to Montgomery, Selma, and Mobile, Alabama, in which the scale starts at $14.50 (Tes, p. J-1452) per car and runs to $22.50 per car. Tabulating these scales and checking the territory in which the three different scales apply, we find that the 25 mile scale of $12.00 per car applies generally in the Mississippi Valley territory. The 25 miles scale of $12.50 per car applies only to Chattanooga, Tennessee, and Gadsden, Alabama; and the 25 mile scale of $12.00 per car applies generally to specific points located mostly in Mississippi, with a few in Tennessee and Alabama. The 50 miles scale of $15.00 per car, and the 75 mile scale of $17.00 per car is uniform in all of the tariffs we have called attention to. The 100-miles scale of $22.50 per car applies generally in the Mississippi Valley territory, while the 100 mile scale of $20.00 per car applies to Chattanooga, Tennessee, and [fol. 1381] Gadsden, Alabama, and to specific named points located mostly in Mississippi, with a few exceptions in Tennessee and Alabama, also one in Louisiana. All three of these scales are published in tariffs which are not generally subject to transit rules, regulations, or privileges, but are generally published as local, joint and proportional rates or net rates on the logs, regardless of the weight per car, with very few exceptions, to lumber milling points widely scattered in the Mississippi Valley, Tennessee, and Alabama,

as well as points in the Southwestern territory, contiguous to the Mississippi River. There are a few exceptions to the applications of the rates per car regardless of weight (Tes. p. J-1453), to which we will now call attention. Supplements 9 and 10 to Chicago, Rock Island & Pacific Railroad, I. C. C. C-12130, carry two scales of rates, both of which apply per car of 90,000 pounds, or less, excess in proportion. One of these scales commences with the charge of $12.00 and ends at $22.50, which is applicable between stations in Arkansas, between stations in Louisiana on interstate traffic, and between stations in Arkansas on the one hand and Louisiana on the other. The other scale applies from stations in Arkansas and Louisiana on the Rock Island to Memphis, Tennessee, as follows:

	Per car
For distances 25 miles and less	$17.00
For distances 50 miles and over 25 miles	20.00
For distances 75 miles and over 50 miles	22.50
For distances 100 miles and over 75 miles	27.50

In supplement 17 to Missouri Pacific, I. C. C. A-7349, and in Missouri Pacific I. C. C. A-8163, applicable respec- [fol. 1382] tively between stations in Missouri and between stations in Arkansas this 90,000 pounds per car scale of rates also applies. It will be noted from this explanation and the tariff situation that the charges are assessed on a per car basis of 90,000 pounds only by the Chicago, Rock Island & Pacific, and the Missouri Pacific, between points which are west of the Mississippi River and on interstate traffic in Louisiana. Some of these scales are published for distances beyond (Tes. p. J-1454) 100 miles. These are published in tariffs which I will describe specifically by number and by application. Supplements 6 and 8 to Columbus & Greenville Railroad, I. C. C. 36, applicable from Columbus & Greenville Railroad stations to Columbus, Greenville, Grenada and West Point, Mississippi, where the 25-mile charge of $12.00 per car and the 100-mile charge of $20.00 per car is extended, also for the following additional distances: For distances 125 miles and over 100 miles $22.50 per car; for distances 150 miles and over 125 miles $25.00 per car; for distances 170 miles and over 150 miles $27.50 per car. The rates for these additional distances are also published per car regardless of the weight of the car.

Supplement 15 to Missouri Pacific, I. C. C. A-7349, applicable on interstate traffic only between stations in Missouri, where the 25-mile charge of $12.00 and the 100-mile charge of $22.50 is extended to cover the movement of logs from distances 125 miles and over 100 miles, at a rate of $27.50 per car regardless of the weight of the car, from stations on the Missouri Pacific Railroad to Cape Girardeau, Missouri, only. In supplement 25 to Illinois [fol. 1383] Central Railroad, I. C. C. 7313, a specific rate applying per car regardless of weight is published from Minter City, Mississippi, located on the Yazoo & Mississippi Valley Railroad to Memphis, Tennessee, a distance of 116 miles, of $22.50 per car, regardless of weight (Tes. p. J-1455). In addition to the scales already pointed out, there are a few additional exceptions or slight differences from the other scales already mentioned, published by individual carriers in Southern and Southwestern territories, which we now point out. Then New Orleans & Northeastern Railroad in I. C. C. 3101, publishes a scale applicable regardless of the weight of the car, from stations on the [fol. 1384] New Orleans and Northeastern Railroad to Laurel, Mississippi, only, which differs slightly from the other scales in the following respect:

	Per car
For distances of 25 miles and under	$12.50
For distances of 50 miles and over 25	15.00
For distances of 75 miles and over 50	17.50
For distances of 100 miles and over 75	22.50

It will be noted that this New Orleans & Northeastern scale differs only in the Mississippi Valley scale in the rate per car of 25 miles or less, and the difference only amounts to 50 cents more than the general Mississippi Valley scale. The new scales of rates with respect to which I have testified with one or two exceptions were all published in 1932. By the terms of the tariffs they expire within one year after publication, unless extended for a longer period. The Southeastern Freight Bureau has assented to a proposal to extend the effective dates of those rates one year beyond the expiration date in that territory (Tes. p. J-1456). So that the new reduced rates on logs will continue to apply within Southwestern territory throughout the year 1933. There are more than 38 tariffs in which the new reduced

rates are published as stated in the previous portion of my testimony. Of these, about 20 can be applied on a strictly local shipment regardless of any transit arrangement. And of the balance of them, a few apply on inbound shipments under bond, and the balance under a transit arrangement providing for refunds on the inbound movement after the outbound shipments of lumber have been made. Nine of these tariffs state that they are published [fol. 1385] to meet truck competition, the tariffs containing the statement that the new scales are published to meet truck competition being:

Missouri Pacific Tariffs, I. C. C. A-7349, A-8018 and A-8163.

Southern Railway, I. C. C. A-10472 and A-10448.

Chicago, Rock Island & Pacific, I. C. C. 12130.

Central of Georgia, I. C. C. 2848.

Seaboard Air Line Railway, I. C. C. A-7638.

Agent Speiden's for the Tennessee, Alabama & Georgia Railway A-659.

With the exception of these nine tariffs, I have been unable to locate any reference in the other tariffs specifically designating the reduced rates as rates to meet motor truck competition. In many of the tariffs to which I have called attention the (Tes. p. J-1457) reduced rates on logs are published as local, joint and proportional rates, without reference to any transit rules or regulations.

Q. Will you now take your Exhibits 134, 135, 136 and 137, and indicate as to each tariff shown on those exhibits whether the new reduced scales apply locally or as transit rates. That is, make a separation between those tariffs which apply the reduced rates on inbound shipments of logs without being tied up definitely to any transit rules in connection with the outbound shipments of lumber on the other hand, and those tariffs in which the reduced rates are definitely tied up with the outbound lumber movement by transit rules.

A. Exhibit 134—commencing with Missouri Pacific tariffs No. A-7348 applies on local shipments of logs without any restriction as to transit arrangements. The same [fol. 1386] is true as to Missouri Pacific, A-7349, and A-8163. The fourth tariff, Missouri Pacific, A-8018, is shown as a local scale on logs for stacking, reshipping, etc. The St. Louis & San Francisco tariffs 9639, 9640,

9638, 9346, 9019, 9567, 9235, and 9195 are all applicable locally without any restrictions as to transit. The Gulf, Mobile & Northern tariffs 1137 and 1058 are designated as local rates, but there are tariff provisions which require that the shipper give bond to insure the outbound movement of lumber over the lines of the Gulf, Mobile & Northern (Tes. p. J-1458). The Chicago, Rock Island & Pacific tariff C-12130 applies as a local tariff. On page 2 of this exhibit, St. Louis & Southwestern tariff 4676, is published as a local or proportional tariff for stacking, dressing, etc. J. E. Johanson's tariff 5-H applicable intrastate in Arkansas applies as a local rate. On Exhibit 135 Southern Railway tariff A-10425 is a local tariff, and Southern Railway tariff A-10472 is a transit tariff, that is, the rates apply in connection with outbound movements of lumber and are known as net transit rates. The third tariff on this exhibit, Speiden's Tariff A-659, applies locally without any transit restrictions. On Exhibit 136 Southern Railway Tariff 10472 is a transit tariff, and 10448 is a net transit tariff. Illinois Central Tariff 7789 applies on logs as a proportional rate to be manufactured and reshipped, etc. Illinois Central & Yazoo & Mississippi Valley tariff 7810 is also a proportional tariff, applicable when for manufacture and reshipment. Illinois Central 7786 is a proportional tariff, applying on logs inbound for manufacture and reshipment. Illinois Central and Yazoo & Mississippi Valley tariff 7811 is a strictly transit tariff which provides [fol. 1387] for assessment on inbound logs with refunds made upon claim statements in connection (Tes. p. J-1458-A) with outbound shipments of lumber and other forest products. Nashville, Chattanooga & St. Louis tariff 3284-A is a strictly local tariff. Columbus & Greenville Railroad tariff No. 36 is a transit tariff. In addition to the scale shown on the bottom of Exhibit 136 provides rates up to 125 miles of $22.50, 150 miles, $25.00 and 170 miles, $27.50. Mobile & Ohio tariff B-860, is a proportional tariff, applying inbound only when the lumber products are reshipped outbound. On Exhibit 137, Seaboard Air Line tariff A-7638 is a transit tariff. Western Railway of Alabama tariff No. A-129 and Central of Georgia tariff 2848 are transit tariffs. Southern Railway tariff A-10425 is a local tariff. Mobile & North Arkansas tariff, I. C. C. 678, Supplement 1, and Mobile & North Arkansas tariff 5-1632,

Supplement 2, which I mentioned in my testimony but have not shown on the exhibits, are purely transit tariffs. The Nashville, Chattanooga & St. Louis also carries or publishes with the Tennessee Commission under rate issue 41926, Supplement 7, which is not shown on my exhibits, this reduced scale on logs (Tes. p. J-1459).

Mr. Adair: Certified copies of those Mr. Examiner are in this batch here.

The Witness: This Nashville, Chattanooga & St. Louis Railway tariff was filed with the Tennessee Commission on October 6, 1932, and applies a scale beginning with a charge of $12.00 for 25 miles up to $20.00 for 100 miles on intrastate traffic in Tennessee, and this is also strictly a local tariff. Another tariff mentioned by me is Illinois Central 7313, Supplement 24, carrying a specific rate from [fol. 1388] Minter City, Mississippi, to Memphis, Tennessee. This is a proportional rate published as a reshipping rate. New Orleans & Northeastern tariff 3101, which I mentioned in my testimony, and which is the Laurel tariff, published a scale as a net transit scale with provision for a bond by the shipper that the outbound shipments of lumber will move over the line of the inbound carrier. As a rule the tariffs apply either at the mill points specifically designated by the tariffs themselves, or between all stations within a particular territory located on the railroad publishing the rate. Some tariffs apply only when the logs are stopped for manufacture of the various lumber products, and the manufactured products are to be subsequently forwarded or reshipped to a further destination either over the line which brings the logs inbound to the manufacturing point (Tes. p. J-1460) direct, or in connection with a subsidiary or affiliated line. Some of the tariffs require the surrender of freight bills at the time the outbound manufactured products is reshipped, and limit the application of the proportional or net rates either with the expiration date of the tariff, or in any event, within eighteen months from the time the logs are received at the manufacturing point. Such tariffs generally provide that for each pound of manufactured lumber shipped outbound the proportional or net rates will be applied on three pounds of logs shipped inbound. Some of the lines in the Mississippi

Valley require a bond and agreement to be executed by the manufacturer at the manufacturing point, in order to insure the proper protection to the rail carrier that the lawful rates will be applied under the tariff and to insure that no loss will accrue to the rail carrier. The condition [fol. 1389] of the bond is such that in the event the manufacturer does not comply with the rules and regulations of the tariff in securing or attempting to secure the application of the reduced proportional or net rates on the inbound products, he must promptly pay the full lawful local published rate on the raw material in effect at the time it moves. Under Southern Railway I. C. C. A-10472, publishing transit privileges on logs at Chattanooga, Tennessee, and Corinth, Mississippi, and under New Orleans & Northeastern Railroad, I. C. C. 3101, publishing manufacturing privileges at Laurel (Tes. p. J-1461), Mississippi, the usual transit regulations are applicable, such as application, designation of the privileges, surrender of freight bills, time limit, ratio of raw material to outbound products, cancellation of freight bills rendered for reshipment, supervision and inspection of records; and the keeping of records by consignees of receipts from all sources and all dispositions upon prescribed forms are all required in the tariffs; but the proportional or net rates are assessed against the inbound logs at the time they move inbound, instead of through claim channels or through refunds made at the time the outbound products are shipped. Under the other transit tariffs, Southern Railway, I. C. C. A-10048, publishing transit privileges on logs at Memphis; Central of Georgia, I. C. C. 2848, publishing transit privileges on logs at Montgomery; Seaboard Air Line, I. C. C. A-7638 publishing transit privileges on logs at Montgomery; and Western Railway of Alabama, I. C. C., A-129, publishing transit privileges on logs at Montgomery and Selma, Alabama, the inbound shipments of logs are subject to the usual transit and policing rules, but when the logs move inbound to the [fol. 1390] manfacturing points the regular published local, not the reduced proportional or net rates up to the manufacturing point, are assessed and charges on that basis are collected from the consignee. When the manufactured product is shipped outbound from the manufacturing point, and when all of the rules and regulations

(Tes. p. J-1462) of the tariffs have been complied with, refund is made based upon the proportional or net rate published in the transit or manufacturing privileges tariffs, figuring a ratio of three pounds of logs inbound to one pound of lumber or other manufactured product outbound. The refund under these particular tariffs is made immediately by the railroad agents at the time the outbound product moves, or later through the usual claim channels. I here call attention to the fact that in all of these tariffs, whether published as proportional or net rates, or as proportional or net rates under transit, or manufacturing privileges, no transit charge at the manufacturing point is assessed either against the inbound movement of logs or the outbound movement of lumber or other manufactured product. The reduced scales, all of them, therefore form the basis upon which settlement of freight charges is made, either at the time the logs move inbound to the manufacturing point or later, without the assessment of any penalty charge or so-called transit charge at the manufacturing point. So far my testimony has dealt entirely with the rates on logs. At practically every large lumber manufacturing point located on the lines of the Atlantic Coast Line Railroad, Seaboard Air Line Railway, or Southern Railway system, in Alabama, Georgia, South Carolina, North Carolina, Virginia, Tennessee, and Mississippi, [fol. 1391] transit privileges are also in effect (Tes. p. J-1463) and available on lumber and articles taking the lumber rates, such as conduits, cross-arms, cross-ties, fence posts, paving blocks, piling, poles, and timber; but not applicable to logs, bolts, billets, cants, or flitches. These transit privileges on lumber apply when moving into the manufacturing points for storage, dressing, resawing, drying, sorting, conversion, creosoting, or treating with preservatives for reshipment to a subsequent and further destination. In the transit arrangements on lumber and other articles taking lumber rates, a penalty charge or transit charge of 2½ cents a hundred pounds is assessed at the manufacturing point under the operation of the rules which usually provide for the protection of the through rate from original point of shipment to final destination via the transit point over direct routes over which a through rate is applicable. This transit

arrangement on lumber and articles taking the lumber rate is also in effect and available at Jacksonville on shipment received and forwarded via Jacksonville in tariffs published by the Atlantic Coast Line Railroad, I. C. C. B-2745, and in Seaboard Air Line Railway tariff A-7606. One exception to the usual lumber transit arrangement carried in the three tariffs just enumerated is an arrangement in effect at Charleston, South Carolina, published by the Southern Railway Company in a separate tariff, I. C. C. A-10467, to become effective August 12, 1932, publishing charges, rules (Tes. p. J-1464 & J-1465) and regulations governing the milling and creosoting of lumber and articles taking the same rates (which articles are described in the tariff as follows: Conduits, Cross-Arms, Fence Posts, Lumber, Paving Blocks, Piling, Poles, Cross-[fol. 1392] ties, and Timber, at Charleston, South Carolina, subject to a transit charge of 2½ cents per 100 pounds. The points specified in the tariff as points of origin (from which the lumber and articles taking the same rates may be shipped into Charleston under the transit privileges provided for in the tariff) extend as far as: Edgefield, South Carolina, 144 miles from Charleston; Augusta, Georgia, 137 miles from Charleston; Park Hill, South Carolina, 141 miles from Charleston; Baynham, South Carolina, 133 miles from Charleston; Columbia, South Carolina, 130 miles from Charleston; Hardeeville, South Carolina, 168 miles from Charleston; Denmark, South Carolina, 82 miles from Charleston; Bath, South Carolina, 131 miles from Charleston; Kingville, South Carolina, 106 miles from Charleston; May, South Carolina, 103 miles from Charleston; Orangeburg, South Carolina, 79 miles from Charleston; Sumter, South Carolina, 130 miles from Charleston, and apply from all points of origin and stations located on the Southern Railway Company on the various branches and the mainline of that running between Augusta, Georgia, and (Tes. p. J-1466) Columbia, South Carolina; between Columbia, and Hardeeville, South Carolina; between Columbia, and Branchville, South Carolina; and between Branchville and Charleston, South Carolina, down to and including West, South Carolina, the nearest railroad station on the Southern Railway to Charleston, only 5 miles from Charleston. The tariff provides for final settlement at rates and

charges shown below from some of the shipping points, and I shall also show the revenues per car of 50,000 pounds. All of the revenue figures I will give will be per car of 50,000 pounds.

[fol. 1393]

Origin	Distance from Charleston	Net transit rate into Charleston per 100 pounds (cents)	Revenue per car of 50,000 pounds
Edgefield, S. C.	144	2	$10.00
Augusta; Georgia	137	2	10.00
Park Hill, S. C.	141	2	10.00
Baynham, S. C.	133	1½	7.50
Columbia, S. C.	130	2	10.00
Hardeeville, S. C.	168	2	10.00
Denmark, S. C.	82	1	5.00
Bath, S. C.	131	1½	7.50
Kingville, S. C.	106	2	10.00
May, South Carolina	103	1½	7.50
Orangeburg, S. C.	79	1	5.00
Sumter, South Carolina	130	2	10.00

(Tes. p. J-1467.)

The figures which I have just given are not based upon actual shipments of which I have knowledge, but are merely theoretical figures showing what the revenue would be if a shipment moved. I have no knowledge about the movements of lumber or logs into or out of Charleston. These rates are carried in the tariffs, Southern Railway, I. C. C. A-10467, published for transit arrangement at Charleston. Based on the net transit rate into Charleston, as shown above, the total revenue per car, on a shipment originating at Hardeeville, South Carolina, 168 miles from Charleston, on a shipment weighing 50,000 pounds, would be $10.00. I have prepared an exhibit showing the rev-
[fol. 1394] enues per car of various weights under the so-called Cummer scale, with various other scales, or proportional net rates, or other of these new rates, and also with the rate formerly approved by the Interstate Commerce Commission for intrastate use in Florida. (Tes. p. J-1468).

Mr. Adair: I now offer the exhibit in evidence as 138.

Exam. Hoy: The exhibit will be received.

A. I am not sure that this caption is not a little misleading. The caption is: "Statement showing revenues per car of various weights under the so-called 'Cummer' Scale compared with various other scales of proportional or net rates applicable to logs." As a matter of fact, that exhibit contains, or is equally applicable to the local scales under the new reduced rates as well as to proportional or net transit scales. The heading does say various other scales of proportional rates. That is what I meant to convey by that. I meant to include in that those 20 local scales to which I have testified as well as the net transit scales. This exhibit is probably self-explanatory, Mr. Examiner, but I call attention to the fact that in my testimony I have pointed out what I have termed in my testimony a scale of rates existing generally throughout the Mississippi Valley, beginning with $12.00, and ending with $22.50. I have also testified about another scale applying into Chattanooga (Tes. p. J-1469) beginning with $12.50, and ending with $20.00. I have testified about another scale generally applicable at points within the State of Mississippi, specifically designated points, beginning at $12.00, and [fol. 1395] ending at $20.00. Also to certain scales in effect to Montgomery, Alabama, and Selma, Alabama, beginning with $14.50, and ending with $22.50. This exhibit is prepared to show what the revenues would be on carloads of 70,000 pounds, 75,000 pounds. It is self-explanatory, and goes by steps of 5,000 from 70,000 to 100,000 pounds. I just call attention to the fact Mr. Examiner that the revenues under these reduced proportional rates in the Mississippi Valley, and the other scales about which I have testified generally, approximate the so-called Cummer scale, and are considerably less than the revenues——

Exam. Hoy: I don't think it is necessary to go into that Mr. Green. The exhibit shows that—this exhibit has been received (Tes. p. J-1470).

Mr. Adair: I offer this map in evidence. We have only two copies. We will have additional copies made and transmit them. One we have here, and one we have delivered to our adversary. That is a map showing the lines in Southern territory.

Exam. Hoy: It will be received as Exhibit 139.

Mr. Adair: I now offer the certified copies of the tariffs, and we will supply for the record and for our friends just a list of them, naming the railroad, and the number.

Mr. Gwathmey: If the Examiner please, we don't concede the relevancy of many of these tariffs, but we offer no objection (Tes. p. J-1471) to their receipt in evidence in the case, because they are tariffs which are on file with the Interstate Commerce Commission, and I really think they are available for use without being formally incorporated [fol. 1396] into the record.

Exam. Hoy: Well, that would be my understanding, that all tariffs referred to in the exhibits of the witness and in his testimony, that all provisions of all those tariffs that are on file with the Interstate Commerce Commission will be available.

Mr. Norman: There are one or two not on file with the Interstate Commerce Commission.

Exam. Hoy: Don't you think it would be sufficient to offer those that are not on file with the Commission. If they are offered, then all of them will be received.

Mr. Adair: I would like to offer them all, and I think our adversaries will concede the wisdom of this, and if for no other reason, if we should be so unfortunate as to hereafter get into the courts on this thing it would present an anomalous situation as the record having a lot of papers made a part of this record only by reference to Interstate Commerce Commission records, and that is the reason that we offer them.

Mr. Hoy: You understand, Mr. Adair, that when these are received, that the Commission can also take into consideration other provisions of those same tariffs? (Tes. p. J-1472.)

Mr. Adair: We concede that; yes, sir.

Mr. Gwathmey: I think that should be very definitely understood, Mr. Examiner, because I was about to call attention to the fact that many of these tariffs that are filed here are supplements, and our brief check that we have been able to make since they have been produced here leads us to believe that there may be notes or provisions [fol. 1397] in the original tariffs to which these are supplements, that have a very direct bearing. I refer par-

ticularly for instance to these tariffs of the St. Louis Southwestern Railroad, and the Frisco, on exhibit 134.

Exam. Hoy: The certified copy of the tariffs will be accepted as Exhibit 140, but the parties should distinctly understand that all of the provisions in each and every one of those tariffs which are on file with the Interstate Commerce Commission can and may be considered as a part of the record.

Mr. Hillyer: Mr. Examinder, I think a further explanation should be made in regard to these certified tariffs. They are taken from the Commission's files, and only the title page, and the page on which the new reduced scale appears, and it was not thought necessary to produce the entire tariff. That was done in order to put this in the briefest possible compass, expecting that this understanding will be reached, that the entire tariffs, as well as the supplements in those pages will be considered in evidence (Tes. p. J-1473).

Exam. Hoy: Yes, sir. The parties understand I think thoroughly that each and every provision in each and every supplement to these tariffs may be, and can be, and possibly will be considered.

Mr. Gutheim: You mean supplements up to these?

[fol. 1398] Exam. Hoy: Up to this time, up to the date of the hearing, of course.

Mr. Gutheim: Does that include supplements published later than the ones that are here introduced in evidence?

Exam. Hoy: No.

Mr. Adair: Gentlemen, I don't want to be misunderstood on this thing. I want to have the record show that we are making the record here with the expectation that we may have to get into the courts, and your Honor may rule, while I am not asking, and your Honor I think said that all records of the Interstate Commerce Commission pertaining to these tariffs come in. Speaking for the Wilson Cypress Lumber Company, and Mr. Turnbull says I may likewise speak for the State of Florida, we are offering these tariffs here to make a record, whatever the law is with respect to the right of the Commission to go back later, to do something else, to go back and make that a part of the record, as evidence, such as the law is—we don't concede it. Am I making myself clear about it?

Mr. Gwathmey: Will you stipulate or agree that the Commission may have that full authority? (Tes. p. J-1474.)

Mr. Adair: I think the law settles that question. I don't think you should ask me to do that.

Mr. Gwathmey: The point is pretty well illustrated by the tariff I have just referred to.

Exam. Hoy: I don't think Mr. Gwathmey it is necessary to talk any further than that. It is true, Mr. Adair, that [fol. 1399] you have offered certified copies containing certain provisions of certain tariffs, but the witness has offered exhibits, and he has offered direct evidence; and my ruling is that the tariffs referred to in his exhibits, and in his direct evidence are really a part of this record. He has testified as to their provisions, and those provisions thereby become a part of the record; and if there are other provisions of those tariffs to which he has called no attention, they are also a part of this record.

Mr. Adair: I understand your Honor's ruling; I don't want to be put in the position of conceding something about which we may be quarreling in the future. I prefer not to be misunderstood upon the subject (Tes. p. J-1475).

T. M. TRUE, called as a witness, being duly sworn, testified as follows:

Direct examination:

A. T. M. True, Barnett National Bank Building, Jacksonville, Florida; Secretary Manager of the Southern Cypress Manufacturing Association. The membership of our association is located generally throughout the South Atlantic and Gulf Coastal states in the South and Southwest. The Association's membership embraces a majority of the larger cypress mills throughout the Southern lumber region (Tes. p. J-1476). For the past sixteen years I have been employed by various lumber manufacturing industries in the South and Southwest; and prior to that time I had fourteen years' experience in the freight traffic departments of various roads in the Southeast and Southwest, such as the Illinois Central, New Orleans & North- [fol. 1400] eastern, Frisco, Missouri, North Arkansas

Railroad, and Appalachicola & Northern Railroad. Most of my railroad experience related to the compilation of rates on lumber and forest products. My duties made it necessary for me to become familiar not only with the actual movement of logs into the mills, and lumber out of the mills, over a period of a good many years, but have made it necessary for me to travel extensively throughout the Southern region particularly in the States east of the Mississippi River. It is part of my duty to keep in touch with these mills at all times in work which would benefit the industry as a whole, especially in connection with inbound transportation of logs and outbound transportation of lumber. I have kept in close touch with conditions in the industry, particularly during the months of the current year since July, 1932 (Tes. p. J-1477). Conditions have been changing rapidly due to the wholesale reductions in log rates since July, 1932, particularly. I have made some special study of these changing conditions during the past few months. I have made a personal investigation of the records of various companies at various points to inform myself of the effect of these reductions on logs. I have made special studies at such points as Jacksonville, Montgomery, Memphis, and Chattanooga, and have been through this region within the past month or so by automobile where I have had an opportunity not only to examine the books of various lumber companies, but also to see the character of the country in which the logs are cut, and the highways over which the logs have been moving by truck, and the facilities for loading and unloading at various plants. I will describe briefly the conditions at Montgomery in regard to the transportation of logs [fol. 1401] prior to the reduced rates and subsequent to the reduced rates of the summer of 1932. A hardwood mill operating at Montgomery uses principally whiteoak, redoak, and hickory logs. Its average mill capacity is thirty to forty thousand feet per day. Prior to the reduced rates this mill received about 90 per cent of its supply of (Tes. p. J-1478) logs by truck, and since the reduction it has received about 50 per cent by rail, and 50 per cent by truck. However, the reduced rates to Montgomery did not apply over the Atlantic Coast Line and the Louisville & Nashville. If the reduced rates had applied over these lines, the rail movement would have become about 95 per cent of the total movement.

Mr. Gwathmey: Now, I object to this testimony, Mr. Examiner. On what grounds can this witness undertake to say what the rail movement would have become? All of it is the purest sort of hearsay in the first place.

Exam. Hoy: That objection is sustained.

Mr. Norman: If the Examiner pleases, it may be mere prophecy as to what would happen, but so far as his testimony with reference to the movement of logs, it is not hearsay at all, any more than testimony of a railroad official as to what he finds out from his agents.

Exam. Hoy: I think the testimony up to the very last statement is perfectly proper, but when he testifies that if the reduced rates had applied over certain other lines, why a certain percentage of the logs would have moved by rail, I don't think he has stated any basis for that. If you will [fol. 1402] state a basis for it, why that might be good (Tes. p. J-1479). I think he should state his facts first, and then his conclusion.

A. About ten to twelve cars were shipped per month prior to the reduction, and about 60 to 90 cars per month have been going in by rail since the rates were reduced over the Central of Georgia. I noted a car of this weight, 93,500 on Central of Georgia expense bill 699, dated October 14, 1932, in Central of Georgia car 17184, which originated at Brantley. The distance from Brantley to Montgomery over the Central of Georgia is about 96.3 miles. The majority of logs at this mill have been originating in the vicinity of Luverne and Troy, both of which are on the Atlantic Coast Line. Prior to the reduction in rail rates they were hauled by truck from Luverne, a distance of about 53 miles to Montgomery. Luverne and Brantley are on a dead-end branch lines, and the movement from Luverne is now made by truck 12 miles to Brantley thence via Central of Georgia to Union Springs, thence over another line of the Central of Georgia into Montgomery. If the reduced rates had been in effect over the Atlantic Coast Line shipments could have moved from Luverne and Troy direct into Montgomery at a great saving in distance. This car which I mentioned as weighing 93,500 pounds paid a transportation cost from Brantley to Mont- [fol. 1403] gomery per car, regardless of weight, of $22.50; on a (Tes. p. J-1480) shipment moving the same distance

on the Atlantic Coast Line in Florida under the Cummer scale the Florida shipper would have paid $24.31 for the same distance—— The same weight, 93,500 pounds—for the same distance the charges on a car based on the rates prescribed by the Interstate Commerce Commission would have been $56.10. While in Troy recently I noticed three cars being loaded with logs. These were Central of Georgia 17086, 17087, and 17088, which were gondolas with high wooden sides and steel ends with marked capacity of 125,400 pounds. The price of logs f. o. b. the woods around Troy ranges from $10.00 to $14.00 per 1,000 feet, and the variety consists of oak and poplar with oak predominating. About 90 per cent of the outbound lumber from this mill moves over the line of the inbound rail carrier, and goes to far distant markets in the East, the Carolinas, and the mid-West. This mill uses the transit arrangement on the basis of 3 pounds of logs to one of lumber outbound, and the new reduced rates apply both on interstate and intrastate traffic. I have recently been in the Luverne, Troy, and Montgomery section by automobile, and have looked over this territory myself (Tes. p. J-1481). They are not members of our association. I took these cars etc., from the actual records myself. As to the effect of the reduced rates on the truck and rail competitive movements of logs into Montgomery: Due to the previous high log rates the truck movement developed rapidly. The reduction in the rail rates has caused a corresponding increase in the rail movement, and a reduction in the truck movement. When the mill had to rely upon the trucks for its [fol. 1404] principal supply of logs it could only operate about one-half time on account of the high price of logs, and high price of transporting the logs.

Mr. Gwathmey: Mr. Examiner, I don't want to be obstructive or captious at all, but I shall insist that this witness confine himself to facts of which he has personal knowledge. Now I have not objected to his testifying that he has taken a trip through this country, and has examined the books of certain mills, and that he finds that certain mills get certain shipments at a certain time—I am not objecting to that—but I do object to this witness undertaking to go beyond that and speculate as to what would be done, or what would not be done, or why.

Mr. Hillyer: May I qualify the witness further, Mr Examiner? (Tes. p. J-1482.)

Exam. Hoy: Yes.

By Mr. Hillyer:

Q. Mr. True, did you go into the records of the company and see yourself what shipments were moving in by truck, and what by rail prior to the reduction, and subsequent to the reduction?

A. Yes, sir; I had access to the records, and I developed this information from personal examination of the books.

Exam. Hoy: I think the witness should confine himself to facts, and in doing that he may testify as to the result of his examination of the books of the various companies that he has inspected as to the movement by truck before the reduced rates, and the movement afterwards, the relative movement by rail, but it should be confined to what he has found out from examination of the books of the companies, or what he has found out otherwise.

[fol. 1405] Mr. Hillyer: Mr. Examiner, let me see if I understand the ruling. Mr. True has attempted here to draw a general statement from the individual records without introducing the exact numbers of cars in my truck, and in by rail at one period, and then the cars in by rail, and the truck movement after that date. Now he has attempted to make a general statement here from an examination of all of those cars. We didn't think it was necessary to bring in complete statements of all movements through all mills. Now we will have a complete showing as to one mill, a very definite showing, but Mr. True was testifying as to the general effect from his own observation (Tes. p. J-1483) of the books of the reduced rates on this movement, rather than going into the particular cars in each case.

Exam. Hoy: I don't mean Mr. Hillyer that he should go into particular cars in each case, but I think he should testify as to the books, of how many companies he has examined, and then testify what that examination showed. He can do that. He need not give the detailed results of the examination of each company, but I think he should show a basis for his statements.

Mr. Hillyer: Up to this point he has been discussing the Montgomery mill—he didn't give the name of that mill, but he has the name, and he would be glad to furnish that,

without putting it on the record, if they wish. He is speaking of the one mill.

Q. As I understand it Mr. True, in Montgomery you are dealing with one mill?

A. One mill at Montgomery, yes.

By Exam. Hoy:

Q. Your testimony as to the amount of movement before [fol. 1406] the reduced rates went into effect and the relative amount of movement afterwards is based on your inspection of the books of one company at Montgomery, is that so?

A. That is the only mill I have discussed yet. I have other mills to put into the record as to the extent of their movement, and what effect it has had on their business.

Exam. Hoy: Well, you go ahead Mr. Hillyer. (Tes. p. J-1484.)

Mr. Hillyer: Perhaps the statement may have been general, but he had this Montgomery mill in mind throughout this course of questions. When we get to the next mill I will make the necessary separation there, and ask him as to the particular mill.

A. (continued) When the rail rates were reduced, and the rail movement was increased, the mill was able to start up full-time operations, and has received sufficient supply for this purpose since the reduced rates went into effect.

Q. Describe similar conditions at mills in Memphis, Tennessee, and show when you pass from the statistics of one mill to those of another Mr. True.

A. The first mill in Memphis I called on had a capacity of about 30,000 feet per day, which has only gone into operation quite recently, and since the reduction in rates by rail on logs. This mill has an average carload weight of 73,300 pounds. The principal cut for this mill is oak logs, and all of its outbound lumber moved over the line of the inbound carrier, which was the Yazoo & Mississippi Valley Railroad. There was some truck movement into this mill formerly before it ceased operations, but the reduction in rail rates has enabled the mill to operate, whereas it could [fol. 1407] not operate under the former high rates on logs.

Mr. Gwathmey: I object to that statement.

Exam. Hoy: Any basis for this statement Mr. True? (Tes. p. J-1485.)

Mr. Hillyer: Take that out, Mr. True. Go back to the next page, you left out the loading of that car, the heavy car.

A. (continued) This heavy car, to show the extent of the heavy loading, I noticed on their books a car weighing 91,000 covered by Yazoo & Mississippi Valley expense bill No. 638, and Illinois Central car 207,075. The date of that expense bill was October 22, 1932. I didn't give the name of the Montgomery mill. I will be glad to do it. Manufactures hardwood lumber. (Tes. p. J-1486.) The Montgomery mill is C. M. Gooch Lumber Company. The first mill on whom I called at Memphis—the first one (Tes. p. J-1489) as to which I have testified, was the C. M. Gooch Lumber Company, the same company, with operations at Memphis. I am still on the Memphis mill of the C. M. Gooch Lumber Company.

By Mr. Hillyer:

Q. Mr. True, as you go along please refrain if you can as to putting in a statement as to the ability of the mill to operate or not operate under the rates.

A. This mill's supply of logs is received generally from the Tallahatchie and Lake Cormorant sections of Mississippi, the Yazoo & Mississippi Valley near the Mississippi River, where the country is swampy and low. Another mill at Memphis is the Wood Lumber Company, which cuts about 20,000 feet per day. Before the rate reduction its average loading of logs by rail was about 63,400 pounds, and since the reduction 73,500 pounds. I have figured [fol. 1408] these averages from the actual weights of shipments into this mill before and after the reduction. This mill loads as high as 90,700 pounds, which I notice on expense bill Yazoo & Mississippi Valley 814, I. C. car 215390, August 31, 1932. This car originated at Prichard, Mississippi, on the Yazoo & Mississippi Valley about 35 miles from Memphis. The transportation cost on this car from Prichard, using the 90,700 pounds, was $15.00. (Tes. p. J-1490.) For a movement for similar distance within the State of Florida over the Atlantic Coast Line Railroad, based on the Cummer scale, the transportation cost would

have been $15.51. If a similar shipment had moved within the State of Florida under the rates prescribed by the Interstate Commerce Commission the charges would have been $36.28. This mill uses principally oak and ash logs, and about 90 per cent. of the lumber moved outbound over the Illinois Central, which owns the Yazoo & Mississippi Valley. There was a truck movement into this mill prior to the reduction, and since then the rail movement has increased, and the truck movement has reduced. This mill has been operated intermittently both prior to and since the reduction. Another mill in Memphis was the Mississippi Valley Hardwood Company, which has an average loading of 71,400, which I figured myself from the actual weights, and I noted one car, Illinois Central 127006, shipped on October 7, 1932, from Lake Cormorant, Mississippi, on the Yazoo & Mississippi Valley expense bill 193, dated October 10, 1932, weighed 88,500 pounds, the freight charge being $12.00. On a shipment moving within the State of Florida on the Atlantic Coast Line Railroad for the same distance under the Cummer scale, the charges would have been $15.13. The distance was 20 miles. (Tes. p. J-1491.)

[fol. 1409] Another mill at Memphis, the Anderson-Tulley Lumber Company. This mill receives logs by truck, and by rail from points in Arkansas. One shipment from Brickeys, Arkansas, made on August 30, 1932, in Missouri Pacific 61777 weighed 83,900 pounds, as shown on expense bill No. 6027, dated September 3, 1932. Brickeys, Arkansas, is 38 miles from Memphis, and the freight charges were $15.00. For a haul within the State of Florida on the Atlantic Coast Line, under the Cummer scale, the charges would have been $14.35, and the charges on the scale prescribed by the Commission would have been $33.56. There is a large mill at Laurel, Mississippi, the E. L. Bruce Company, with a capacity of 70,000 feet per day, located on the Gulf, Mobile & Northern. Since the reduced rates went into effect it has received about 200 cars per month by rail, and the truck movement has been reduced about 50 per cent. to about 25 cars per month. Average weight of shipments into this mill before and since the reduction is about 70,000 pounds. Since the reduction in rates the loading has been heavier. For example, one car, Chicago, Burlington & Quincy, 181460, loaded at Burns, Mississippi, October 7, 1932, contained 122,000 pounds as

shown on Gulf, Mobile & Northern expense bill 8809, dated October 7, 1932. Burns, Mississippi, is 32 miles to Laurel. The charges on this shipment were $15.00. Based on the Cummer scale, the charges for a haul within Florida on the Atlantic Coast Line Railroad would have been $20.86, and based (Tes. p. J-1492) on the I. C. C. scale the charges would have been $48.80. Practically all of the lumber from this mill moves outbound over the line of inbound carrier to the Gulf ports for export, and to points in Kentucky and Indiana, and occasionally to Central territory. The truck [fol. 1410] competition developed under the former rates at this mill and the reduction in rail rates has caused an increase in rail movement and reduction in the truck movement. The mill is operated continuously. This mill uses stakes and chains on the majority of the shipments, and has an allowance of 500 pounds in weight for this material when used in connection with flat cars. The only difference in conditions in loading or unloading as between Jacksonville mills and Laurel is that the logs destined to the Laurel mill are usually loaded by derrick by the shippers instead of by skids. The countryside around Laurel is subject to soil slides. After the Gulf, Mobile & Northern was built they had continual slide slips of the soil along this line which caused heavy maintenance expense for right-of-way. I was in business in that section for quite a period, as to the general part of the country. I never lived in Laurel, but I have lived in New Orleans and Memphis, and I am familiar with that territory. The statement about the topography of the country is based on my own observation. (Tes. p. J-1493.) To make this examination I didn't go to Laurel. I made the examination from the office of E. L. Bruce in Memphis; the records were there. I didn't go to the mill at Laurel at all. The mill at Chattanooga, Williams & Vorhis Lumber Company, which has a capacity of about 25,000 feet per day, which has been running from two to three days per week for the past year. Prior to the reduction it received about 20 per cent. of its supply of logs by rail, and 80 per cent. by truck. The reduction has reversed this situation, so that now about 80 per cent. of the logs come in by rail since the summer of 1932, and 20 per cent. by truck. This mill only accepts cars which have [fol. 1411] a loading capacity of about 125,000 pounds, and its average loading since the rates were reduced ranges from 105,000 to 110,000 pounds.

By Mr. Gwathmey:

Q. May I interrupt to ask you right there—did you yourself check the books of this company to see what the average loading was, or did somebody tell you that was the average loading? (Tes. p. J-1494)

A. In this particular case, the Williams & Vorhis, I think those were checked for me, let's see. I didn't personally make the calculation of the average weights at that mill; no, sir. As to whether somebody told me that was the average loading, I suppose it would be put that way, except that I personally examined some of the freight bills to fix in my own mind if that were about correct, and that is verified by a shipment here that I will give you now. This car was shipped from Dunlap, Tennessee, September 26, 1932, to Chattanooga, a distance of 65 miles, contained 114,900 pounds as I noted from Nashville, Chattanooga & St. Louis expense bill No. 38839 dated at Chattanooga, September 27, 1932, car Nashville, Chattanooga & St. Louis 43208. The charges on that shipment $17.50; for a similar haul under the Cummer scale the charges would have been $26.43.

By Mr. Hillyer:

Q. Now Mr. True, in stating the fact that this average was obtained by some one else for you in the Chattanooga mill, you didn's mean by that that all of the averages you have shown were derived in that way, did you?

A. No; I didn't intend to convey that idea at all. As a matter of fact (Tes. p. J-1495) I generally made the calcu-
[fol. 1412] lations myself. I have the adding-machine slips with me in some cases, or pencil figures, if the machine was not available. The I. C. C. charge per car there on that last car was $57.45 for 65 miles. This shipment is indicative of the effect which the new reduced rates, made regardless of the weight of the car, are having upon the average loading of logs in Southern and Southwestern territories. While I have shown some average loadings up to this time at various mills subsequent to the reduced rates, it should be borne in mind that the full effect of the change in rates to a basis regardless of the weight of the car, is becoming more pronounced each month. The shippers now have become accustomed to the advantages of loading as heavily as pos-

sible under the new reduced rates made regardless of weight, and the (Tes. p. J-1496) actual average loading at this time under the recently developed heavier loading would show considerably heavier average than those which I have enumerated.

Exam. Hoy: That is speculative, is it not? That is, you think it would.

Mr. Adair: Your Honor, he has seen the books.

Exam. Hoy: He is talking now, since he has seen the books.

Mr. Adair: Beg your pardon, I don't think he intended to do so. He means that the latter part of this——

Exam. Hoy: Period that he is giving, that is all right.

[fol. 1413] Mr. Adair: The latter part, that the loadings have been heavier—that they have been getting steadily heavier all the time; and that the average during the last part of the period is higher than the total average to which he has testified.

By Exam. Hoy:

Q. Is that what you intended to testify?

A. Yes, sir; that is correct. There can be no doubt in my mind but what the newly reduced rates made regardless of weight have already made a very substantial increase in the average loading of logs which move under the new reduced rate scales. The average price of logs, f. o. b. the woods, shipped to this mill in the latter half of 1932 has been about $6.00 to $8.00 per 1000 and consist largely of oak logs. Most of the shipments into Chattanooga originate on branch and dead-end branch (Tes. p. J-1497) lines in a highly mountainous section where there are either heavy grades or sharp curves or both. The outbound shipments of lumber moved to the East and New England States principally. The reduced inbound rates to Chattanooga over the Nashville, Chattanooga & St. Louis apply locally without any transit arrangements, and the Southern Railway's reduced rates apply both locally and proportionally. On both lines they apply both interstate and intrastate. At Chattanooga the truck movement developed under the former rail rates, and the reduction in the rail rates has caused an increase in the rail movement, and a reduction in the truck movement together with an

increase in the loading of the rail cars. An "A" frame is used for loading cars shipped into Chattanooga. They use high side gondolas without stakes or chains. As to log conditions at various points I have mentioned:—The conditions under which logs are loaded onto railroad cars [fol. 1414] and transported into the mills at Jacksonville, Memphis, Montgomery, Laurel, and Chattanooga, are practically identical with the exception that the transportation conditions around Chattanooga are less favorable due to the topography of the country, and the fact that the logs originate mostly on dead-end branch lines, whereas most of the logs over the Coast Line into Jacksonville originate on the main line in level (Tes. p. J-1498) country where the operating conditions are quite favorable. As to the last statement there about shipments into Jacksonville, I have in mind the F. S. Buffum Company operating in Jacksonville. There is very little difference between the situation at Jacksonville and that at Montgomery, with the exception that the logs into Montgomery originate on dead-end branch lines also. To some extent this is true of Memphis, Tennessee, and Laurel, Mississippi. As to the territory along the Mississippi River in Arkansas, and Mississippi, the transportation conditions are generally less favorable than over the Coast Line into Jacksonville. As to whether there is any difference in the transportation service on the inbound movement of logs where the transit arrangements are in effect and where no transit arrangements are accorded, there is absolutely no difference in the physical operation of terminals or the handling of the logs whether transit is accorded or not. The only difference is that when local rates are charged inbound on logs and refunds made on the surrender of expense bills in connection with the outbound movements of lumber the carriers have the additional clerical expense in handling the transit billing. Transit is usually accorded on lumber under an arrangement whereby the joint through rate on lumber is applied from [fol. 1415] (Tes. p. J-1499) the original shipping point via transit point to the ultimate destination. For example on a shipment of poles inbound from point A to B for creosoting in transit at B, and reshipment to a northern destination, under the transit arrangement the joint through rate would be applied from point A to the northern destination plus a charge for the transit service at point B cov-

ering clerical expense and extra switching over and above the switching which would be required if the shipment had moved through from point A to the northern destination. Ordinarily the transit arrangements on logs merely have the effect of reducing the inbound charges on logs in the ratio of three pounds of logs to one pound of lumber without applying the joint through rate from the original shipping point of the logs to the ultimate destination of the lumber. Ordinarily the effect of transit arrangements on lumber is to make the charges the same as if the shipment had originated at the original point plus the transit charge, the combined charges being less than if the transaction were treated as two separate and distinct shipments subject to local rates both inbound and outbound. The Cummer scale into Jacksonville plus the lumber rates out would result in a greater revenue than a car of lumber shipped from the same point of origin to Jacksonville and creosoted in transit and shipped to a northern market. For example, let us take 150,000 pounds of logs from Gainesville, Florida, to Jacksonville (Tes. p. J-1500) over the Atlantic Coast Line, a distance of 85 miles. Under the Cummer scale at 2.3 cents per 100 pounds the inbound revenue on the two cars of logs would be $34.50. The outbound lumber rates from Jacksonville to New York is [fol. 1416] 41½ cents and on 50,000 pounds would yield $207.50 for the car of lumber. This added to the revenue on the logs would make $242,00. If a car of lumber were shipped from Gainesville for creosoting in transit at Jacksonville under the transit arrangements the shipper would ultimate- pay freight charges on basis of the joint through rate of 42½ cents from Gainesville to New York plus a transit charge of 2½ cents per 100 pounds, total 45 cents, on 50,000 pounds or a total of $225.00.

Mr. Gwathmey: If the Examiner please, I fail to see the relevancy of all this to the reopened case. Perhaps counsel will enlighten us as to what it has got to do with the case. But unless he does so, I will have to object to it.

Mr. Hillyer: Mr. Examiner, we assumed that the defendants would develop the point or stress the fact that some of these rates to other parts of the South and Southwest were transit rates; and the purpose of this testimony was to show that the Cummer scale on shipments moving into the Buffum mill, and into northern destinations would yield

more revenue than if the lumber originated at the original shipping point, or if a transit arrangement was in effect, such as in effect at other points. He merely wants to show that the aggregate revenue (Tes. p. J-1501) under the Cummer scale as it now exists would be greater than under a transit arrangement; making a comparison of rates there.

Exam. Hoy: It seems to me that is beyond the scope of this reopened hearing, Mr. Hillyer. It is not evidence [fol. 1417] dealing with any change in rate on logs, or the circumstances connected with or the conditions which occasioned such changes. I don't think under the limited reopening that that is admissible.

Mr. Gwathmey: In the light of counsel's statement I want to note a definite objection to it.

Mr. Alston: Including the fact that the question as asked is not within the scope of the reopened hearing (Tes. p. J-1502).

Exam. Hoy. The rest of the answer in my opinion is beyond the issues of the reopened proceeding, and the objection thereto will be sustained.

A. (continued) In my opinion the best method of publishing rates on logs is to make a flat inbound scale, in cents per car regardless of the weight of the shipment, such as the new reduced log rate scales which have been published generally throughout the South and Southwest in recent months. The Cummer scale itself is my idea of how a log scale should be constructed, and is, I think upon the proper level at this time to assist the railroads in getting log and lumber traffic, and to assist the cypress and hardwood industry in the South. As to what effect would the elimination of the Cummer scale and these newly reduced log scales have upon the carriers' revenues, in my opinion, it seems certain to my mind that the truck competition has come here to stay, and that the elimination of the Cummer scale, and the substitution therefor of the high scale prescribed by the Commission in this proceeding, and the cancellation of the new reduced log rate scales in other parts of the Southwest would mean a loss of substantial revenue on logs, and lumber, to the railroads; [fol. 1418] and would mean the stimulation of transportation (Tes. p. J-1503) by truck and water. The

industry has been aided and stimulated by these reduced rates.

Cross-examination:

The C. M. Gooch Lumber Company's mill at Montgomery is served by the Western Railway of Alabama and also by the Central of Georgia. They have joint facilities there. There is no switching (Tes. p. J-1504) assessed to their industry on business moving from points on the Central of Georgia Railway. The physical location of the same company's mill at Memphis is on the Union Belt at Memphis. The Union Belt is controlled by the Missouri Pacific. All lines have access to any industry on the Union Belt.

Q. On the same basis as the Missouri Pacific?

A. I am not sure about that Mr. Alston. There may be a switching charge in some instances. The Woods Lumber company plant at Memphis is served by the Illinois Central and the Louisville & Nashville, not on the Union Belt (Tes. p. J-1505). The Gooch Lumber Company at Memphis is not on any other road except the Union Belt. I know that it is positively served by the Union Belt, but I am not positive that it is served by other lines. C. L. Bruce Company's mill at Laurel, Mississippi is served by the Gulf, Mobile & Northern; and as I understand it it is also served by the Illinois Central and New Orleans and Eastern, three roads. The Williams & Vorhis plant at Chattanooga, is served by the belt line, which is controlled [fol. 1419] by the Southern Railway and by the Nashville, Chattanooga & St. Louis also. Those two roads then have immediate access to that Williams plant. The belt line is used by the Southern Railway (Tes. p. J-1506). Those are the only two roads there except the Tennessee, Alabama & Georgia. The best way of making rates on logs is by carloads, without regard to weight. I said the best way to make rates on logs was to make them per car, regardless of weight.

Q. Suppose there were two shippers at shipping point X, we will say, both shipping into the manufacturing or transit point we will call Y, in competition with each other. Suppose you furnish shipper No. 1 with a car of 60,000 pounds capacity, and shipper. No. 2 with a car of 40,000 pounds capacity, would there be any disadvantage to shipper No. 2 in that?

A. There would be a disadvantage. I would not think there would be a discrimination. The shipper could order any sized equipment he wanted, and get the heavier load per car.

Q. Well suppose he didn't—suppose that all the equipment was not uniform in capacity.

A. If I were that shipper I would wait until I could get highside gon; and load it to 125,000 pounds capacity (Tes. p. J-1507).

Q. Then under your plan we have no basis of regulating that defect.

Mr. Adair: We object to that. I think the law regulates that. The railroad companies have got to distribute their equipment with an even hand, or violate the law, and suffer the penalties of it.

Exam. Hoy: Yes, but he is questioning him on his basis or theory of making rates on logs. I think his cross-examination is proper.

[fol. 1420] Mr. Gutheim: But the distribution of cars is not fairly accomplished by a mere distribution of car by car with their varying capacities. The shipper is entitled to his share of the capacities. That is a legal proposition.

Q. I asked if your plan made any provision for protection—any means of preventing the defect which I have mentioned, on the part of the lack of equality which could be produced as between shippers?

A. I don't know that I could answer your question, Mr. Alston. In rate making it is proper for the carrier to have knowledge of the return which is received per ton mile or per car mile, on a given class of (Tes. p. J-1508) traffic, and on each class of traffic. As to whether my plan permits that, that all goes to the question of whether or not these are maximum reasonable rates. I don't know whether they are or not—if they are moving the business, that is what counts these days. My plan might be of value to meet some emergency; to meet the truck competition, if you call that an emergency.

Q. Now, are you familiar with the decision of the supreme court of this State in the case of Louisville & Nashville against Speet-Parker Company (137 Southern Reporter) in which the plan which you have mentioned were condemned?

A. No.

Mr. Adair: I object to that, your Honor. In the first place the statement is a misstatement of the contents of the case; and the second place, this man is not qualified. But principally I wish to say it is a misstatement of the effect of the case.

Q. Are you familiar with the case?

A. No, I am not familiar.

[fol. 1421] Q. Are you familiar with the fact that the Supreme Court of this State has disapproved your method —the method that you (Tes. p. J-1509) have proposed?

A. No, I don't know that I could answer your question.

Q. Mr. True, I am not very sure that I understood your evidence as to the transit privilege. Do you mean that the transit privilege as being applied is one which is applied according to the illustration which I will now make. Suppose point X is the point of origin, and point Y is the transit point, or the point of manufacture. Did I understand that your thought of a transit privilege was that the log should move from Point X to point Y on this rate —the low rate—and when the lumber is manufactured at Y it should move out of Y to destination on a rate applicable as though it had originated at X?

A. No, that is so-called "milling in transit" on lumber; that would not apply on logs. The transit where it is in effect on logs from X to Y, which is the point of manufacture, is a ratio of three to one. In other words, the high rate is assessed upon reshipment of the manufactured product, refund is made down to basis of three cars of logs in to one car of lumber out. Of course you understand Mr. Alston that while there are some transit rates on logs now in effect, most of them are the flat rates. They have gotten away from that (Tes. p. J-1510). By flat rate I mean the rate of say $12.00 per car regardless of weight would be charged, and there would be no necessity of going to the work of filing claims to get a refund. Those rates are in effect at Chattanooga—the people at [fol. 1422] Chattanooga, they would have this so-called transit rate first, and they were not satisfied with it.

Q. All right. We have gotten away from the question. I would like you to illustrate—taking the illustration which I have used—wait, I would like for you to apply the illustration which I have used—your conception of the transit rate. Well, begin please with the lot at X, please.

A. You have 150,000 pounds of log from X to Y, and when you ship 50,000 pounds of lumber, the 150,000 pounds of logs from X into Y would be reduced as far as the charges are concerned to the basis of these truck-made rates per car, regardless of weight. The shipment which moved out from Y, in order to get the advantage or reductions should move out over the line from X to Y (Tes. p. J-1511). Over the same railroad, yes. Over the same line that moved the logs from X to Y, if it is a transit rate.

By Mr. Gwathmey:

Q. Mr. True, if two shippers have cars of the same capacity, and one loads to 50,000 pounds and the other loads to 100,000, and both are charged the same amount, in your opinion does that create an advantage in favor of one shipper against the other?

A. I would not think it would be an advantage that the carriers would be responsible for. One would get his logs transported cheaper than the other, naturally. This investigation which I have made was made by me especially for the purposes of this case (Tes. p. J-1512). As to whether I have enumerated all of the mills which I visited, let me see. We called on other mills, but for reasons that these other mills were not operating we could not get the [fol. 1423] information we were seeking. Those mills that were not operating could not give us any authentic information as to what the condition is today as compared with the time prior to the reduction in the freight rates. For instance we called on the Fisher Lumber Corporation at Memphis, Mr. Keith Spurrier, called on James E. Stark at Memphis, and they were not operating. Mr. F. S. Buffum was with me. I personally investigated the ones that I have enumerated.

Q. Did anybody tell you in advance to make every effort you could to find out certain cars that were loaded above the average (Tes. p. J-1513)?

A. Well, my investigation was to determine what the lumber industry—to what extent the lumber industry was taking advantage of these rates that were published on a per car basis regardless of weight, and naturally I had to determine what the loading was to see what the cost of transportation to those people was on the loss.

Q. Well, you several times referred to the fact, as you expressed it, that you saw a certain car which weighed so much. Were you on the lookout to find cars of that sort?

A. I simply wanted something to put into the record to show that I knew what the conditions were there, so far as the loading and shipping are concerned.

Q. In your compilations of these averages which you have given, what period did you cover?

A. Well, I didn't try to determine on any period, I didn't, I simply took what cars were available and struck an average; sometimes I used 20 or 25 cars, and other times perhaps on account of the mill not operating to full [fol. 1424] capacity there were not over 10 or 15 cars on the average. I just took that 10, 15, or 25 cars as it happened to be and struck an average of those cars. As to an average loading for the C. M .Gooch (Tes. p. J-1514) Lumber Company at Montgomery, I don't think I did have any average of those. There was no reason why we should not have shown it that I know of.

Q. You mentioned one car which you say you saw at that plant which weighed 93,500 pounds, but you didn't undertake to give an average for that mill as you did for each of the others. Now why didn't you?

A. Well, I didn't make any figures on the average there; and I thought perhaps it would not be proper to take the average unless I had checked it up. It was an oversight on my part; I took their words for it; I was not there, it was authentic. I didn't find any of these cars that were overloaded, Mr. Alston. That is to say, if they were overloaded there was no excess charges.

Q. Well, there could not have been any excess charges. I mean loaded beyond the rated capacity. Suppose the railroad sent you at 60,000 pound car capacity. Did you find any cars where the rated capacity of 60,000 pounds were loaded beyond 60,000 pounds?

A. No, I didn't experience that at all. The loads seemed to be heavier the last people I called on. It is a new proposition (Tes. p. J-1515) to them, and they apparently were not aware of the fact that they could load the cars heavy. Now, you take the people at Chattanooga, they are only ordering the big high side gons that can be loaded to a load limit of approximately 125,000 pounds. That is the

loading limit, 120,000 — capacity cars, but you can load [fol. 1425] them to 125,000 pounds. That is the stenciled load limit; there is nothing wrong about that; the carriers want that done. The carriers stencil all of their cars. Originally it was the idea you could not load a 100,000 — capacity gon to 110,000, that is 10 per cent of its capacity, but now you can load it to its load limit, stenciled load limit of approximately 125,000 pounds. It is a safe-carrying load. Also, it all depends on your tariff provisions for overloaded cars. If the tariff provided for a penalty of so much per car for overloading, it might be 110,000 —, 10 per cent of the load limit, or it might be something less than that; the tariff would speak for itself.

By Mr. Adair:

Q. Ordinarily Mr. True you can overload 10 (Tes. p. J-1516) per cent, can you not, without penalty?

A. You can call it overloading.

Q. Beyond the stenciled figures, 10 per cent?

A. Heretofore you have been limited to loading a car in excess of 110 per cent of marked capacity, but that is not done today; you determine the load by getting the load limit, which is stenciled on the car.

By Exam. Hoy:

Q. Mr. True, in arriving at these average loadings, did you cover any uniform period of time?

A. No, I didn't, Mr. Hoy, because I could not do that, due to the fact that on account of conditions as exist today some mills would be operating 2 or 3 days per week, and other mills perhaps 4 or 5 days per week, and the only thing I did attempt to do was to pick out some cars and strike an average of the last week or two of the movement prior to reduction, and a week or two subsequent to reduction. The period of time was generally a week or two prior to the reduction and a week or two subsequent to the reduction.

[fol. 1426] By Mr. Alston:

Q. Mr. True, were there any other mills which you visited and which were operating for which you have not given statistics (Tes. p. J-1517)?

A. No, I think all of the mills we visited were operating. And in fact we didn't call on any mills that were not operating, because those figures would not do us any good. I have given the figures on all of the mills visited.

Redirect examination:

A. As to whether there were any mills operating in any of those cities, Montgomery, Chattanooga, and Memphis, at the time that I called there that I have failed to report upon here today, no, with one exception. Shannon Brothers of Memphis were operating, and we made three special trips out there to get in touch with him, and we had to leave that afternoon, Saturday afternoon, and we failed to get the information from him, but he promised to send it in, but for some reason it has not come yet. That was the only mill that we called on that we didn't (Tes. p. J-1518) get this data on. That is the only mill that we called on that didn't give us this information; that was operating, that we didn't get it from. These averages in the pre-reduction period, and the post-reduction period were compiled by me upon the operations of a week or two before the reduction, and a week or two after the reduction——

Q. Now, did you examine the records of the company during any other period of pre-reduction and the post-reduction period to see that those averages fairly represented the true averages under the different operating conditions?

A. We did to this extent, Mr. Adair. When we wanted [fol. 1427] to determine the heaviest load we could find on the book, we found invariably we would go to the last cars that were moving, and our heaviest load would indicate a more recent shipment than the averages made prior to that time. As to whether these averages that I have given here fairly represent the averages—average loadings during the two periods of operations, I think so, sir; I didn't try to pick out any cars; made no selection whatever. I simply went before the reduced rates were made and struck an average, and then took another batch (Tes. p. J-1519) and made an average of the cars moving since the reductions were made, and from my examination I am satisfied that the average loadings are increasing as the time goes on, and that the present average loadings are heavier than the figures that I have here given.

By Exam. Hoy:

Q. Mr. True, did you take the week or two weeks as the case might be just before the reduction, and the first week or two weeks after the reduction in each case?

A. I could not say exactly that I did that Mr. Hoy, because with some of the mills they would not be operating for a week or two weeks perhaps before the reduction.

Q. I mean the last cars. Did you take the last cars before the reduction for the period back, and the first cars after the reduction?

A. That is it, sir. In speaking of the 125,000 capacity cars, I had in mind the new stenciled capacity of those cars (Tes. p. J-1520).

Q. Taking the Chattanooga cars for example, where you showed one car of 114,000 pounds, and stated those [fol. 1428] shippers were asking for cars of 125,000 capacity. Did you mean that car was overloaded 100,000, or below the 125,000?

A. I mean it was below the stenciled light limit of the car. I would say that 114,000 pounds of logs on a gondola car of that capacity would be a thoroughly heavy load, but it would not be overloaded by any means. I didn't mean then that the shippers were loading the cars in excess of the railroad requirements, they were not doing that.

Q. Now, when you were explaining the Chattanooga situation you were not permitted to finish your answer. I would like for you to follow that out, and explain the effect of the new rate at Chattanooga. You gave an illustration of a shipment on which certain charges were paid at Chattanooga.

A. Those were the flat rates into Chattanooga; they were not the transit rates. If that shipment stopped there and was made into lumber, and was disposed of locally, there would have been no difference whatsoever in the inbound charge (Tes. p. J-1521). When I said the inbound log rates ought to be made on flat basis per car, that is what I had in mind, and not tied up with any transit arrangements. Now, in the case of that shipment at Chattanooga, the logs which were cut into lumber—if that lumber moved on out to Cincinnati, that would not affect in any way the inbound charge to Chattanooga, none whatever; flat rates would apply on it.

F. S. BUFFUM, called as a witness, being duly sworn, testified as follows:

Direct examination:

A. F. S. Buffum, 234 Ives Street, Jacksonville, Florida. I am President of F. S. Buffum Company, Incorporated. [fol. 1429] This company is engaged in the business of purchasing logs at interior Florida points; bringing the logs to our plant at Jacksonville, manufacturing the logs into lumber of various kinds, and shipping the lumber products to various sections of (Tes. p. J-1522) the country. At times we have also been engaged in cutting logs for other hardwood lumber companies at our Jacksonville mill. While we lease the plant the investment in the mill is approximately $90,000.00, exclusive of the value of the land upon which the mill is located. Approximately $3,000.00 taxes are paid annually by the company on its Florida operations. About 100 persons are employed, on the average, at this mill during the past year, and about 150 persons engaged in logging operations which serve the mill have been given employment by others as a direct result of the operations of our mill, when our mill has been in operation. The average monthly cut of this mill during the past year has been 700,000 feet. The mill is situated in the western industrial section of the city of Jacksonville at 234 Ives street, and is on McCoy's creek, a small stream of water which empties into the St. Johns River at Jacksonville. The mill owns its own industrial railroad tracks which are adjacent to and served exclusively by the Atlantic Coast Line Railroad (Tes. p. J-1523). We have used hardwood logs, including ash, gum, oak, and cypress. In recent months the greater portion of our shipments have consisted of cypress logs. We have cut a considerable quantity of hardwood logs, other than cypress, for others, in the past, but, at the present time this cut has been discontinued, and most of our logs are now cypress. However, in the future we expect to cut ash, gum, oak, and hickory logs as they may be available from time to time. We do not cut pine logs. The [fol. 1430] Jacksonville mill began cutting cypress and hardwood logs in the month of June, 1930. This was during the period between February 9, 1929, and April 10,

1931, when the Cummer scale of rates was not in effect, when our logs were coming in mostly by truck.

Mr. Hillyer: We offer in evidence as Witness Buffum's Exhibit No. 141 a statement of "Inbound Shipments of logs."

Exam. Hoy: The exhibit will be received and marked No. 141.

A: This statement was prepared under my direction from the books of this company in order to show the inbound movement of (Tes. p. J-1524) logs received at our mill from the time when the mill began operations through the month of October, 1932, month by month, with a separation between the inbound shipments by railroad, by truck and by water. For this purpose the monthly receipts of logs in feet, board measure, were converted into the approximate number of cars by truck, and by water. The numbers of cars by rail are the actual number, and the number cars by truck and by water are only approximate. In reducing feet, board measure, to equivalent cars by truck and water I have used 4231 feet as the divisor into the feet, board measure, that being the average of the board measure per railroad car actually received at my plant. During the entire period of our operations, through October of this year, we have received the equivalent of 3178.6 cars. Of this total 1092 moved in by rail, 1935.3 by truck, and 151.3 by water. Although the Cummer scale was restored on April 10, 1931, it took some time to rearrange our contracts, and the rail movement over the Atlantic Coast Line really began in June, 1931. During the period June, 1931, to December, 1931, [fol. 1431] inclusive, business was scarce, due to trade conditions, and during the months of October to December 15th we were not operating, due to lack of orders. This middle period then is not indicative of the current year, 1932, when a much different condition existed (Tes. p. J-1525). The exhibit shows that during the first year of our operations 275 cars were received by rail, and 788.8 by truck and water. It will be noted that during this period cars came in over the Atlantic Coast Line, Seaboard Air Line, Southern, and Florida East Coast, when the Cummer scale was not in effect. These shipments were in large part from nearby points. The total receipt

of logs were too small to warrant us in operating other than intermittently during our first year. During the period June to December, 1931, when the Cummer scale was in effect, it will be noted that shipments inbound over lines other than the Atlantic Coast Line ceased, and there were 134 cars over the Atlantic Coast Line, 383 carloads by truck, and 2.1 by water. In the first period the Atlantic Coast Line movement was only 20 per cent. of the truck movement. In the second bracket, the Atlantic Coast Line movement under the Cummer scale was 35 per cent. of the truck movement. The third bracket shows the movement for the first 10 months of the current year. Thus, under the Cummer scale, the Atlantic Coast Line shipments increased to 655 cars or 65.5 cars per month, which is 77 per cent. of the truck movement of 848.5 cars during the same period. During the first year 1930 the Atlantic Coast Line shipments averaged about 12 cars per month (Tes. p. J-1526). That is 1930; the first year of our operation. We started operation in June. I am repeating—during the first year the Atlantic Coast Line shipments averaged about 12 cars per month, and during the year [fol. 1432] 1932 the Atlantic Coast Line shipments averaged about 65.5 cars per month. In the month of May the Atlantic Coast Line shipments, 107 cars, exceeded the truck movement, 99.3 cars. The loggers in the woods expected the Cummer scale to be again cancelled on September 15, 1932, pursuant to the order of the Interstate Commerce Commission, and they stopped cutting about that date. After the Federal court, on September 14, 1932, enjoined the order of the Commission, the loggers began operations again. This made a drop in our receipts, which is reflected in the September and October figures. During the first part of October, due to this temporary stoppage in the cutting of logs, our supply of logs at the mill was depleted, and we had to stop operations from October 4, 1932, until October 10, 1932, when our supply was again renewed (Tes. p. J-1527). Eliminating the months of September and October, there were 558 cars inbound over the Atlantic Coast Line under the Cummer scale, or an average of about 70 cars for the 8 months period of the current year. During the same 8 months there were 689.6 cars in by truck, or an average of 86.2 cars per month. The inbound water movement has never been substantial in vol-

ume, or regular. It is only occasionally that we can get logs inbound by water. The truck movement, as will be seen from this exhibit, is a serious competitor of the railroads. The restoration of the Cummer scale enabled us to bring in a large additional supply of logs over the Atlantic Coast Line, and it was only after the restoration of that scale that we were able to draw from longer distant points, thus supplementing our truck and water supply, and thereby receive sufficient total supply to enable us to operate our plant continuously. Unless the Cummer scale or [fol. 1433] its equivalent is continued in effect we cannot bring in any logs by rail, other than an occasional car from nearby points.

Mr. Hillyer: Mr. Examiner, we ask that this exhibit be received in evidence.

Exam. Hoy: It will be received as No. 142 (Tes. p. J-1528).

Mr. Hillyer: We now offer exhibit showing "Outbound Movement of Lumber," to be marked for identification as Mr. Buffum's Exhibit No. 143.

Exam. Hoy: That will be 143—identified as such.

Mr. Gwathmey: Now, I wish to object to this Exhibit, Mr. Examiner, upon the ground that neither the outbound rates nor the outbound movement are at issue here; nor do they have any hearing upon the subjects upon which this case was reopened.

Mr. Norman: Mr. Examiner, I say that it is apparently claimed here by the Atlantic Coast Line Railroad that there is some difference growing out of the tying up of the outbound tonnage with the inbound tonnage, and the purpose of this exhibit is apparent on its face, and is to show that the Atlantic Coast Line Railroad has gotten from this shipper, without that tying up, more than the regular proportion of one pound of outbound lumber for three pounds of inbound logs; and I think it is competent as bearing on this so-called transit proposition.

Exam. Hoy: Well, I feel that I will have to sustain the objection. I do not believe the outbound movement of lumber is within the scope of the reopened hearing. It is not a change in the rate on logs, and neither can I see where it is evidence showing the circumstances connected with and the conditions which occasioned any change in the rates on logs.

Mr. Adair: May I or not inquire, your Honor. Then am [fol. 1434] I to (Tes. p. J-1529) understand that your Honor has ruled that whether or not these tariffs are transit rates or local rates makes no difference in the level of the rate, and the propriety of that level?

Exam. Hoy: I am not making any ruling as to that. You are putting in your evidence as to changes in the rates on logs, and circumstances and conditions which occasioned those changes, and then evidence as to whether such circumstances and conditions, or any of them, are present in respect to the Florida intrastate rates on logs.

Mr. Adair: The purpose of this proof which we now proffer is to show *that in practical* operation and in effect the Cummer scale as applied in Florida is tantamount to a transit scale, is substantially in this particular instance, which we say is typical, that all that the Atlantic Coast Line Railroad Company gets substantially is the entire product of the mill to which the logs are moved.

Exam. Hoy: My ruling will have to be that that evidence is not admissible under the order reopening the case.

Mr. Adair: We make the proffer, your Honor, and understand that your ruling is against us, and we now except to that ruling.

Exam. Hoy: The record will note the exception.

Mr. Hillyer: Mr. Examiner, may I say a word on that point which has not been covered. We have before us here a new (Tes. p. J-1530) condition, under which in the South and the Southwest there are various new tariffs published—some are transit rates, some are net rates, and some are strictly local rates. Now, since we are going first [fol. 1435] in this proceeding, we necessarily have to anticipate some defenses which might be made. One of those defenses we assumed would be that these rates put in in other places were at least in some instances transit rates, and therefore the Cummer scale has no relation to a transit rate published somewhere else. Now, the purpose of this evidence was to show by Mr. True, for example, that the inbound log rates are made differently from the ordinary transit. And we want to show here from that, even if a transit arrangement were in effect in connection with the Cummer scale at Jacksonville the Atlantic Coast Line Railroad would not get any more tonnage than it does now, because at the present time the outbound products are mov-

ing over the Coast Line in greater proportion than the inbound movement. We also want to show this relationship between the truck operations and the rail operations, not only with respect to inbound movement, but outbound. We feel that that has a distinct bearing on this situation; we don't think Mr. Buffum's showing would be complete without it. We are not undertaking to burden the record here, but we thought at one point even in this regard we should cover the complete situation as to both inbound and outbound shipments, and to let the showing include the shipments by truck as well as by rail (Tes. p. J-1531).

Exam. Hoy: Mr. Hillyer, I am limited by the order of the Commission reopening, and as I interpret that order it is limited with respect to the rates on logs; the changes in rates on logs, and the conditions and the circumstances which occasioned changes in rates on logs, and I have got to confine the evidence to that to the best of my ability. I will have to reaffirm the former ruling, that evidence as [fol. 1436] to shipments of lumber outbound are not within the issues of the reopened proceeding, and exception has been noted on the record. Exception for Mr. Adair.

Mr. Hillyer: Mr. Adair has made the exception. Now I would like to say that the Buffum Company also asks to note an exception on its separate account.

Exam. Hoy: The record will so indicate, Mr. Hillyer.

Mr. Hillyer: Now Mr. Examiner, I want to recast this testimony in accordance with your Honor's ruling. Now I want to ask this question, not as evidence under your Honor's ruling, but as information. Now we had intended to show that the shipments inbound on logs to Jacksonville to Mr. Buffum's mill were similar to the conditions at the mills in Montgomery, Chattanooga, and other points; also that the lumber was shipped out to the same competitive markets in the East, and principally by railroad; and we wanted to show the destinations of the lumber in general from the other producing points; and also to Jacksonville, but as we understand your ruling now it would be (Tes. p. J-1532) necessary to eliminate any further reference to outbound shipments of lumber. Is that correct?

Exam. Hoy: That is correct.

Mr. Gwathmey: Counsel's last statement to my mind emphasizes the propriety of the ruling.

Mr. Gutheim: I understand that you are also eliminating any reference to balancing of outbound lumber and inbound logs?

Exam. Hoy: That is true.

[fol. 1437] Mr. Gutheim: That is correct?

Exam. Hoy: Yes.

By Mr. Hillyer:

Q. If the Cummer scale should be cancelled again, leaving in effect the higher rates prescribed by the Commission, what effect, in your opinion, would that have upon the carriers' revenues, on the logs and lumber to and from your mill?

A. The cancellation of the Cummer scale would undoubtedly cause an almost immediate and almost total elimination of railroad movement of logs into our mill. It is my opinion that the Atlantic Coast Line, which serves our mill, would experience a loss of practically all of the revenue which it is now receiving on our log traffic which comes from an area of about 150 miles from interior Florida points, and this line, and its connections would also lose considerable revenue on outbound shipments of lumber to far-distant markets. As to the comparative price level of logs this year as compared with last year and prior years (Tes. p. J-1533). The value of pine and cypress logs is about the same, and both are very low valued commodities. The ash logs range in value about 20 per cent more than pine and cypress, and the oak logs about twenty per cent less than pine and cypress. During the year 1932 there has been a serious drop in the already depressed price of logs. Last year the price of cypress logs for example was about $22.00 per 1,000 feet, whereas the average price in 1932, the current year, has been about $15.00 per 1,000. The price level of the log market and the lumber market has reached a pre-war stage, and the log and lumber industries have been compelled to operate on the price level which existed many years ago. This is [fol. 1438] price delivered f. o. b. mill, Jacksonville. As to the method of loading logs for shipment over the Atlantic Coast Line to our plant, most of the cars furnished us by the Atlantic Coast Line for logs are low-sided gondolas, having capacity of 100,000 pounds. The cars are placed at the loading tracks owned by the shipper, off of the rail-

road right-of-way, and are loaded by the use of skids. The loading is performed by the shipper, without expense to the carrier. These low-sided gondolas will only carry from 50,000 to 60,000 pounds, so loaded, unless stakes are so placed in the cars, (Tes. p. J-1534) alongside the sides of the cars, so that the logs can be stacked up higher than the sides of the gondolas would otherwise permit. By the use of stakes, which involves no great difficulty and very little expense, we can load these cars very heavily, up to 100,000 pounds. Due to the fact that the Cummer rate applies in cars of 50,000 pounds, excess in proportion, there has been no incentive to the shipper to go to the expense of placing stakes in the cars so as to load them more heavily. The average loading of logs has increased greatly during the past summer in the South and Southwest, due to the fact that the new log rate scales in these territories usually apply per car regardless of the weight of the car. This fact has changed conditions so that generally the shipper will insist on having cars placed which will carry the very heavy loads. In this way the shippers are getting the advantage of heavier loading, and it is found that such rates assist the railroads in recapturing traffic in logs which has been lost to the trucks. An illustration of a heavily loaded car, shipped to our plant recently is Car Atlantic Coast Line No. 91720 received at [fol. 1439] our mill on November 8, 1932, was loaded with 101,500 pounds of cypress logs. The freight bill on this car is Pro. No. 51969 dated November 10, 1932. It came in over the Atlantic Coast Line Railroad. As to how cars are unloaded at our plant (Tes. p. J-1535) the unloading is performed by a skidder or derrick, or crane, by the shipper, at the shipper's expense. A skidder is an overhead cable with bicycle that lifts the logs in the car and transports them to the log pile. At our own expense, and on the shipper's own tracks and land, off of the carrier right-of-way. Cars are unloaded promptly, and there is little if any delay in releasing the cars at our mill. The Cummer scale provides that the shippers must unload the cars off of the carrier's right-of-way, and we do this in all cases. In this way the carrier has no investment in terminal facilities for unloading the logs. I have been in the

lumber business since a boy, for 35 years. I have traveled over the southern lumber region off and on throughout the past 30 years, and have had experience in various phases of the lumber business throughout the South. I have some knowledge of conditions of the lumber industry in the Southwest. This experience has been gained through personal travel over the area, the woods, highways, and at mill points. As to the changes in the transportation of logs in the South in recent months, the most impressive change in the transportation of logs, (Tes. p. J-1536) to my mind, has been the rapid decline in railroad movement, and the rapid increase in motor truck movement, and the increased length of haul of the truck movements of logs. For years it appeared that the trucks would not become a serious competitor of the railroads for low-grade heavy articles, such as logs, but the development of [fol. 1440] numerous highways throughout the South, and the increased efficiency and speed of the trucks has changed this condition, and the changed condition has now become realized. For example, when we began the operation of our mill at Jacksonville, while the Cummer scale was out of effect, we knew that we had to depend principally upon the trucks for our supply of logs because we could not use the railroads to any considerable extent, for the hauls of any considerable length, under the high rates prescribed by the Commission. Nevertheless, we had sufficient confidence in the truck situation to begin the operation of this mill, and we are still using the trucks as much as is convenient and economical even after the Cummer scale has been restored. We would prefer to use the railroad, if the Cummer scale, or some lower basis of rates, is kept in effect, but we cannot use the railroads and must use the trucks and water almost entirely if the Cummer scale is replaced by a higher scale of log rates. Another important change, growing out of such conditions as I have described, is the attitude of the railroads, as shown by the establishment, during the past summer, of generally (Tes. p. J-1537) reduced scales of log rates throughout the South and Southwest lumber regions. To my mind these reductions amount to a recognition by the railroads that the truck competition is a very important and acute factor in the struggle of the various carriers to gain increased traffic and revenue, and my opinion is that this condition

has come to stay. I think the attitude of the railroads in making these reductions is sound, and necessary for their salvation. Hardwood mills are in operation at such points [fol. 1441] at Montgomery, Alabama, Memphis, Tennessee, Laurel, Mississippi, Chattanooga, Tennesse, and elsewhere. I know this of my own knowledge. I travel considerably, and I have visited operating mills in the cities, which I have just named, within the past two months, in addition to my general knowledge of business conditions in the lumber industry which is gained by contact with the trade through travel. The method of loading and unloading logs, shipped by railroad, is practically identical throughout the South and Southwest. I do not think of any substantial difference anywhere, with the exception, which I explained before, that at most (Tes. p. J-1538) other cities and mill points the receivers are insisting on the use of the high capacity gondolas, especially since the new reduced rates went into effect, so that the average loading throughout the South has been materially increased. The shippers recognize the advantage of loading the cars to the maximum limit, where the rates are made so much per car regardless of weight. As to the general topography of the country through which the log shipments are made to the cities which I have named, the country around Montgomery is somewhat rolling, and hilly, and in this respect is somewhat different than the country in interior Florida up to Jacksonville, where the country is even and quite flat especially along the main line of the Atlantic Coast Line west of the St. Johns River, between Orlando, Florida and Jacksonville. There would naturally be more curves, cuts, and fills in the Montgomery section than in this Florida section served by the Coast Line. Around Laurel, Mississippi, there are more hills than around Montgomery. That is, the hills are, perhaps not higher, but are more abrupt, and it is more like the Montgomery section than the Florida section. Around Memphis some of the logs come in across the Mississippi [fol. 1442] River bridge from Arkansas, where the land is low and swampy. South of Memphis, near the river, where most of the hardwood (Tes. p. J-1539) logs come from at present, the area is low and swampy also, with some rolling country. Over towards Corinth, Mississippi, there are more hills and the country is like that around

Montgomery and Laurel. Around Chattanooga, Tennessee, the logging area is mountainous with either heavy grades, or sharp curves to avoid heavy grades. Most of the shipping points from which we receive log shipments over the Atlantic Coast Line come directly from the main lines. A few points are on some secondary lines, such as the line going up to Jasper, Florida. In the Montgomery section most of the logs come from areas where branch line movements are necessary, and the same is true at Chattanooga. The Mississippi logs coming into Memphis originate largely upon the branch, or secondary main line of the Yazoo & Mississippi Valley, which runs along near the Mississippi River. On the whole I would say that there is more main line operation in log movements to Jacksonville, and less branch-line movement, whereas at Montgomery, Memphis, and Chattanooga, there is more branch-line movement, and less main-line movement (Tes. p. J-1540). I was with the Kingston Lumber Company at Laurel for about two years; they operated on what was then the Memphis, Jackson & Kansas City, now the Gulf, Mobile & Northern. Also at Loosedale, Mississippi, on the same lines. Also at Mt. Vernon, Alabama, on the Southern Railway, between Mobile and Selma.

By Mr. Alston:

Q. Are you referring to mills or forests?

A. Saw mills, where we cut the timber and sawed it up into logs. I heard the testimony of Mr. True this morn-
[fol. 1443] ing, most of it, I heard the part of it with respect to the slides encountered in that operating condition around the Laurel section. I have been familiar with that situation of my own knowledge. The Mobile, Jackson & Kansas City—the line north of Laurel, was a logging railroad, and originally our logging road. Of the Kingston Lumber Company, as our company; and from about 40 miles north of Laurel up to Philadelphia there were sometimes anywhere from 4 or 5 days to 10 days that trains could not operate on account of the slides when that roadway was put through (Tes. p. J-1541). Mr. True mentioned the fact that he had taken this trip with me recently to these cities. Now on that trip we took occasion to look into the matter of the trucks which were competing with the railroads, as to the size of those trucks. I saw

trucks delivering at all of the points that we stopped at, and every truck on the road or at the mill were Fords and Chevrolets. Their average load is about 800 feet of logs. Those logs will weigh about 13 or 14 pounds to the foot; say about 10 to 11 thousand pounds. The same type of truck used in Florida in operating into our mill, practically all the trucks that are hauling logs into our mill are of that type. We have one logger, or two loggers that have several trucks that carry more than that, and these trucks—the trucks used (Tes. p. J-1542) there handled all short logs. As to whether there is any substantial difference in the volume of the log traffic into any of these other Southern mill points than into Jacksonville at the present time, while there may be some difference in the inbound movements to these various mill points, I am sure that there is not a great deal of difference, and I think that they are substantially the same in volume at the different cities. [fol. 1444] Hardwood and cypress logs are cut, as they are reached, just alike in each of these sections, or logging areas, and I do not think there is any trainload movement of hardwood logs to any of these mills in the South or Southwest. I would say that the volume of movement is substantially similar throughout the entire Southern region, depending only upon the varying capacity of the respective mills. As to whether there is any substantial difference in the value of the logs f. o. b. logging point near Jacksonville and near Montgomery, Laurel, Memphis, and Chattanooga, there is very little variation in the price of logs at this time, taking logs of the same character and of the same specie-. Of course, in each area the prices differ according to the diameter, and the grade of the particular log. On the whole I would say that the average prices for logs of like kind and grade are very much alike th-oughout the South and Southwest (Tes. p. J-1543). The States which constitute the principal lumber-producing section of the Southwest are Arkansas, Louisiana, Mississippi, Eastern Texas. As to Missouri, that is a section I am not familiar with.

[fol. 1445] Cross-examination.

By Mr. Alston:

Q. Mr. Buffum, let us take your exhibit No. 141. Begin with June, which is the first month, as I understand it,

of the operation of your mill in Jacksonville? What you call the interstate rate was in effect at that time?

A. Yes, sir (Tes. p. J-1544). We were getting our logs principally by truck about Jacksonville, within a radius of 30 miles. That is not the maximum radius. I could not answer that; I don't recall just from what points, how far away we were getting them at that time. They were adjacent to the highways. Some out of these swamps, they may be adjacent to rail; we are not bringing in any by rail at that time, so I would have no occasion to know. Most of our logs come from swampy sections; I could not say whether those were adjacent to water or not; we do get them adjacent to water. Some were near the St. Johns River. The majority that we got during that period this first period—from June through to December (Tes. p. J-1545) inclusive of the 30th were not from territory adjacent to the St. Johns River. Those are cars, figured 4200 feet to the car—4200, it is our average—4231 feet to the car. As to how many, what percentage of them were adjacent to the railroads, that I could not tell you, I don't know.

Q. At that time or during the period beginning with June 30th through May, the 31st, which makes your first year of operation, you got 142 cars by the Atlantic Coast Line, and 107 cars by the Seaboard Air Line, 2 by the Southern, and 24 by the Florida East Coast. Please state whether or not the charges during that period by the Seaboard Air Line and the Southern and the Florida East Coast were not about equal to what we call the interstate rate, that is the [fol. 1446] rates fixed by the Interstate Commerce Commission?

A. Well, I am not qualified to answer that. I don't know what the rates were. The tariff should show that, whatever the tariffs were; if they are the same, why we paid the same. We didn't pay the freight ourselves (Tes. p. J-1546) except for the account of the shipper. During that first year, the end of our operations, the interstate rates were in effect until April 10th. I believe that is the date; yes.

Q. 1931. But it didn't become practically operative until June 1931. Is that a fair statement of what you said?

A. Yes, sir.

Q. During that period—by that period I mean the first year—you received 275 cars by railroad, you received 703

cars—703.8 cars by truck, and you received 85 cars by water. Now in the next month which followed, June, July, August, September, October, November and December, you have testified as I have understood you, that you were not operating in November?

A. Yes, sir. October to December 15th we were shut down, and prior to that date we were not operating full time (Tes. p. J-1547). As to where did we get our logs at that time, Well, we had one—we had a contract with one logger that delivered us—had a contract to deliver one million and a half feet by truck, that came from about 16 miles out the Lem Turner road, sixteen miles from our mill, yes, sir; about half a mile from here. This contract was made prior to April 10, 1931, and we had agreed to take from sixty to 75,000 feet a week from this shipper, and regardless of what the rates might be we had to take care of our obligation with them on that contract, and he continued delivering those logs until either July or August, 1931, or just about the time we shut down in September. We were taking the logs that we had contracted for by truck. [fol. 1447] It is pretty near, say about 16 miles. Our other logs, they came from every direction around Jacksonville. Well, we were getting logs from around on the St. Augustine road, about 25 miles; and I think they call it the 12-mile swamp, it is between here, a little over half way, from here to St. Augustine; getting some logs around McClenny, that is (Tes. p. J-1548) out around between here and Lake City. The St. Augustine—the logs between here and St. Augustine is on the Florida East Coast; the logs at McClenny, this particular point is adjacent to the Seaboard and the Atlantic Coast Line where they come into the main highway is about, well possibly two miles beyond Baldwin, between Baldwin and McClenny. As to how far from Jacksonville where these logs come, about 30 miles. In this second bracket of our exhibit, beginning with June, 1931, ending with December, we had a total of 385.1 cars of logs moved in by truck and water, nearly all of which are truck, 383 cars. That was something less than half of what we had done in the first period. By rail during that period we had exactly the same number—no we had about 134 cars, as against 275, for the first period, now about half (Tes. p. J-1549). In the third period, which is the year 1932 through October, we had 683 cars by rail. They came from

points such as Orlando, Deland, Fort White, Carbur and other points on that line. They are all the points that I have described on the Atlantic Coast Line. All of the logs which we got by railroad were not from points on the Atlantic Coast Line in that period. 28 cars came over the Seaboard. Except for that these—the logs which we got by rail, were from points on the Atlantic Coast Line. As to the 28 cars which moved over the Seaboard Air Line, I could not tell you what rate was paid.

[fol. 1448] Q. I don't mean in dollars, but I mean the rate, whether it (Tes. p. J-1550) was or was not practically the rate fixed by the Interstate Commerce Commission for the Atlantic Coast Line?

A. They were the published rate, whatever the rate is, I don't know what the rate may be, because I don't know the destinations, but we can say they were all short hauls. During that period, we had 848.5 cars by truck, which is more than twice the amount which we received by truck during the corresponding period from June through December 1931. By truck and water we received during the 1932 period, that is through October, 912.7 cars. (Tes. J-1551) The logs hauled in by truck during the 1932 period were from points adjacent to Jacksonville, ranging in distance from 5 to 55 miles. I should say our average distance would be 25 miles. 25 to 30 miles. Under a rate which I have described or referred to per car without regard to weight limits, the tendency of the shipper is to demand more and more weight—that is for transit rate. That is what I was speaking of. (Tes. p. 1552) I think the rate that I was talking about was the rate that the shippers in the Southwest—moving to the Southwest.

Q. Would that not be the tendency of shippers anywhere as to any commodity, to increase the loading where the rate is made by the car, without regard to the weight of the loading?

A. Obviously. (Tes. p. 1553)

Q. What plan would that schedule of rates provide for the protection of the railroads' revenue for that kind of service, whether it be calculated on either a car mile or a ton mile?

A. I know, but we are combatting truck competition, and [fol. 1449] I may be a little outside of the point, but of course there will be as I stated, as far as we are concerned,

unless some such rate is put into effect all of our logs will be received either by truck or water.

Exam. Hoy: That does not answer the question Mr. Buffum.

The Witness: I cannot answer it, because I don't think I understand it. Our offices are right here in Jacksonville.

Q. Would you be willing during the course of this hearing to take your exhibit No. 141, and show us specifically to each one of the groups or movements that you show on here by truck (Tes. p. 1554) and by railroad respectively, the actual loading points, the distances from Jacksonville, and the number of cars loaded at each point, so that it will be possible to figure out from that information the weighted average haul to Jacksonville. Can you do that without much difficulty? Will you undertake to do that for us. You see what I am getting at. You said to Mr. Alston, that these logs in 1932 which moved into Jacksonville by truck came from distances ranging from 5 to 55 miles. What I would like to be able to find out particularly for the record is what the average weighted distance is, of trucks, and also railroads.

A. I think for trucks it would be rather difficult, as we don't keep a very accurate record of just where these logs come from. We buy them from a man who may bring in one or two trucks a week, and out in one swamp one place one week, and another swamp another week; I don't think we could get the trucks very easily. I know some of our principal truckers, but we have a ticket showing that John Brown brought in logs, we give him a slip for those logs, and on Saturday night we pay him off (Tes. p. 1555) and [fol. 1450] that is the end of it. We don't know where they originate; we cannot tell except from week to week possibly.

Q. Well, do you know how many of these cars originated within the 5-mile limit, and how many originated in the 55-mile limit; or how many rather moved as far as 50 miles? Or can you testify as to that?

A. I could not testify, but I can testify that some of them did move for that distance, because I know where they come from.

Q. Now can you from your books tell us what the average length of the movement of these cars was? I don't mean the average of the points, I mean the average of the cars.

A. We know where the cars come from; we have freight bills on all of the cars. As to the average of the trucks, I cannot. Not any too accurately; I would not want to go on the—it would only be more or less an estimate on my part. We don't do any logging operations. That accounts for the fact that we don't have any record of where the logs might have originated. We only know from hearsay, or from just talking with the (Tes. p. 1556) trucker, that he brings it from a certain place. Our company owns no timber at all. When we buy timber from somebody out in the woods, or from some timber man, we know where he is going to cut those logs, at the time, yes, but I cannot go back two years and tell you from a ticket just what swamp certain timber came out of, but at the time we know.

Q. Can you tell us where these logs came from that moved in here by truck in 1932?

A. I rather doubt it, but if we can I will go over my records and see how complete they are in that respect.

Q. Well, where did these 28 cars that came in over the Seaboard come in from?

A. I would have to look that up; I could not tell you off [fol. 1451] hand. Nearby points though I know.

By Exam. Hoy:

Q. Then Mr. Buffum, you don't know whether any of these 848.5 cars that came in by truck could have moved in by railroad in 1932, do you? That is, whether they were located on rail lines?

A. Well, the rail lines are parallelled by the highways; I presume they could have been moved in by rail lines. There is (Tes. p. 1557) not a highway out of Jacksonville—there is not a railway out of Jacksonville, that is not parallelled by a highway, but there may be some highways that are not parallelled by railways.

Q. If it came in over a highway, it would not necessarily mean that they would be readily available for rail transportation. Would not necessarily follow. It might follow, and it might not. I was wondering what portion of that 848.5, if any, could have just as easily moved by rail as by truck, or whether some of it, or a large portion of it, it was not feasible to move it by rail, because possibly not adjacent to a railroad.

A. Well, I could not answer that question.

By Mr. Norman:

Q. Well, that particular log might not have been moved by a railroad, but a log just like it could have moved by railroad, could it not?

A. Well, most of our logs can be moved by railroad.

By Mr. Alston:

Q. Mr. Buffum, let me ask you this. Can you give me any idea as to how many of these logs which you have said come to you by truck over a distance which you have averaged by estimate being 25 miles, would have to move from the forest to the railroad, and how far would that movement be from the forest to the railroad if they had moved by railroad? (Tes. p. 1558)

[fol. 1452] A. Well I suppose an average of—well, for instance out of the Lake City Road, possibly three or four miles. As to how far would the total haul be on that truck movement if it had come into our plant from the forest, I suppose about three or four miles, if it came by rail to the railroad. That truck haul if the truck had come on into our plant with the logs would be an average of 25 to 30 miles; that is what I said. Take this swamp out between McClenny and Baldwin, it is 20 miles to Baldwin, and the haul to Baldwin would be about 5 miles, or McClenny. Our average truck carries about 800 feet—that is for an ordinary Ford, or Chevrolet truck. That is about ten to eleven thousand pounds. (Tes. p. 1559) We estimated the car; at 4231 feet.

By Mr. Gwathmey:

Q. Mr. Buffum, to get back to what I was asking you about, am I to understand now that you say that you have no records in your office from which could be determined the origin of these various shipments that moved in here during 1932 by truck.

A. I don't believe we do. I will undertake to investigate and find out, and let you know before this hearing is over, whether we can from our records show where those cars originated and how many originated at each point, and how many of those could have been shipped by railroad. (Tes. p. 1560) Since I operated in the Southwest it has been about 20 years since I was actually operating saw mills there, but I have visited that section several times a year during that time.

Redirect examination:

A. The maximum length truck haul which I can recall just now of logs coming into our mill is about 55 miles.

[fol. 1453] Q. I had a recollection that you told me that you remembered something as long as 73 miles.

A. No, sir; I think 55 miles; that is down below St. Augustine about. While I am looking up this truck movement if I find a longer haul than that I will make a note of it.

Recross-examination:

I testified our plant is on a creek (Tes. p. 1562). That creek is connected with the St. Johns River, and that creek is navigable for logs but not for boats.

[fol. 1454] J. O. GILL, called as a witness, being duly sworn, testified as follows:

Direct examination:

My name is J. O. Gill. I am general freight agent of the Gulf, Mobile & Northern Railroad, and I live in Mobile, Alabama. Our main line extends from Mobile, Alabama, in a generally northern direction to Paducah, Kentucky, with branch line extending into Meridian, and a line extending into Jackson, Mississippi (Tes. p. 1563), from Union, a distance of 74 miles. There is in our system approximately 800 miles. We found, just prior to making these reductions, that logs were moving into our manufacturing points by trucks. We also found that logs were not moving freely, and we made inquiry of the buyers and shippers of logs as to what we could do to regain the traffic from the trucks and prevent further trucking, and to stimulate the rail movement into the manufacturing points of the logs, and the shipment of products manufactured from the logs outbound from the terminal points.

Mr. Adair: Wait a minute, your Honor, I think we, at the instance of our charming adversaries here, have had quite a discussion between ourselves as to the pertinency of the outbound movement into this inquiry, and we do now object to this witness conducting his testimony any

further along the lines, which at their instance, at the instance of our adversaries, has been ruled out.

A. I hope the gentleman is not referring to me as an adversary. I was asked to explain why we made these reductions (Tes. p. 1564). Exam. Hoy: In accordance with my former ruling there will be no evidence received [fol. 1455] as to the outbound movement of lumber. The evidence will have to be confined to the order reopening the case. Now, of course I don't think he has transgressed so far, or very far yet. He can give fully his reasons for making the changes in his log rates. That is within the scope of the hearing. The purpose of receiving evidence respecting any change in the rates on logs; the circumstances connected with, and the conditions which occasioned such changes, and whether such circumstances and conditions, or any of them, are present with respect to the Florida intra-state log rates of defendant.

Mr. Norman: So that if he testifies anything about outbound movements in connection with the circumstances and conditions surrounding his log rates, we have a right to show whether the same circumstances and conditions are similar to the ones that exist in Florida?

Exam. Hoy: Whatever he shows as a reason, as a circumstance (Tes. p. 1565), a condition for reducing his log rate, then you can show similar circumstances and conditions with respect to the intra-state rates on logs of the defendant in Florida. It seems to me that one is tied up with the other.

Mr. Gwathmey: I call your attention to the fact that, since our friends on the other side are getting highly technical here, the objection to the previous witness' testimony was that he was testifying about the inbound rates on lumber from——

Mr. Norman: Not showing rates at all. Outbound movements.

Mr. Gwathmey: Figured how much it cost him to ship inbound and outbound.

Mr. Alston: Wait a minute, let me ask the witness a question.

Mr. Norman: Ask him not to answer the question until [fol. 1456] I can make the objection.

Exam. Hoy: Wait a second. You ask the question and the witness need not answer it immediately.

By Mr. Alston:

Q. Mr. Gill, please state whether or not your road made and fairly recently made some rates, and new rates on the transportation of logs, and if so, please state whether those rates were local or transit rates?

A. They were applied locally into manufacturing points with the understanding that the manufactured product would be reshipped in proportion of the manufactured product in weight to the gross (Tes. p. 1566) weight of the shipments in, and on the rate from the manufacturing point proper, and that they would be shipped out over our line. There was a tariff provision to that effect, the tariff that Mr. Green introduced in evidence this morning. Those rates stay in effect by the terms of the tariff until May 9, 1933. They were put in as experimental rates in reference to meeting truck competition.

Q. After those rates were put into effect give us some illustrations as to the effect on truck competition, that is, what was the effect in removing truck competition, if it did remove it, the extent to removing it, or something as to the mileage haul within which truck competition was affected?

A. I cannot exactly answer your question, but I think I can throw some light upon the subject by reading to you the results from an analysis we made. I am disappointed at the results (Tes. p. 1567) although unquestionably we have regained some business from the trucks. I cannot say how much. However, our records show that for the short distances, that is, distances under 25 miles, by comparison, using 3-month period prior to the establishment of the truck competitive rates, and a three month period [fol. 1457] since the establishment of the rates, that at Jackson, Mississippi, we handled two cars on the truck competitive rates for distances under 25 miles as against none prior to the establishment of these truck competitive rates. Into Jackson, Tennessee, using the same period and the same distance, we handled two cars prior to the establishment of these rates, and none during the period since the effective date of the rates. Into Laurel, Mississippi, for the three-months period prior to the establishment of the truck competitive rates for distances under 25 miles, we handled 10 cars as against 7 during the period since the effective date.

Going back to Jackson, Mississippi, we had an increase of 18 cars for distances 50 miles and over 25; and at Jackson, Tennessee, we had 39 cars as compared to 25 cars prior to the effective date. Laurel, Mississippi, shows up better. We had a movement of 355 cars as compared to 31 for distances 50 miles and over 25. For distances 75 miles and over 50 into Jackson, Mississippi, we had an increase of 5 cars; Jackson, Tennessee, 25 cars; Laurel, Mississippi, 21 cars.

For distances 100 miles and over 75 miles, we had an increase (Tes. p. 1568) into Jackson, Mississippi, of 5 cars or in other words, we handled 5 cars against none. In Jackson, Tennessee, we had a decrease of 3 cars, handling six as against 9 for the three month period prior to the effective date of the competitive rate, and at Laurel, we had an increase of 4 cars as compared to 8.

The average loading for the same periods into Jackson, Mississippi, was 65,470 pounds as compared to 69,000 [fol. 1458] pounds since the effective date of the changes. Into Jackson, Tennessee, the average loading for the same periods were 55,090, and 65,900; into Laurel, Mississippi, 68,069 and 77,000.

The rates as published by us apply on logs, short or long, and bolts, billets and blocks, and in the Jackson, Tennessee, area there is a considerable movement of this, and there is some moving into Jackson, Mississippi, of these commodities,—that is, blocks and bolts for the manufacture of staves and heading.

Now I should like to go a little further with that answer; so that, as we see it, for the short distances we have not regained the traffic from the trucks, nor have we regained it to any appreciable extent for the long distances. I am not able to say exactly how much we have regained for the distances 50 miles and over 25, but as I have already stated, that was (Tes. p. 1569) one reason we established all of these rates, and I can only assume that it has had some effect. We do know that they are still trucking logs to some extent.

I have been in the railroad traffic business since 1910. I was in the operating and traffic departments of the Illinois Central and the 'Frisco, and in 1913 I went with the present Company and have been with them practically ever since, that is excepting during the war period of about

two and a half years. I was in the traffic department of our company and have had charge of the rates since 1913.

It is the tendency of the shipper to demand the heaviest possible loading on equipment furnished, when the schedule of rates is on the plan of so much per car, without re- [fol. 1459] gard to weight. I do not recall anything else that is carried on that basis; I do not regard that as a sound basis of rate-making. As I say, we put those rates in as an experiment, with a provision of expiration in May, 1933 (Tes. p. 1570).

Cross-examination:

Our rates are from 25 miles and under $12.50 per car,—not $12.00 as stated by Mr. Green, who testified this morning. For the next block, that is 50 miles and over 25, $15.00; the next block $17.50, and for the distance 75 miles and over 50; For the distance of 100 miles and over 75, $22.50 and not $20.00. Those rates apply between points on the Gulf, Mobile & Northern Railroad, any point, or all points. That is to say, whether it is a local point, competitive point, junction point, or any other kind of point, the rates apply, they are effective in interstate commerce May 8, 1932 (Tes. p. 1571). Intra-state, Mississippi, they were effective May 8,—March 29, 1932. Those rates are of course on file with the Interstate Commerce Commission. For interstate application under those rates we hold ourselves out to haul logs to as high a weight as can be loaded on the car, so long as it is not overloaded, and we hope to get them at those rates. I think that would be fine business for experimentation.

Redirect examination:

They are effective (Tes. p. 1572) only to points of manufacture—to any point that wanted to manufacture; they are effective any place. It is the scale that would apply. Let's see if I find the tariff there. At stations on the Gulf, Mobile & Northern named herein they are conditioned upon lumber being shipped out; they would not apply to any [fol. 1460] point at which lumber is not shipped out. Mr. Green has introduced the tariff provision and has explained the application this morning, sir. I have no criticism of his explanation; I agree with Mr. Green, except as to the rates themselves. I mean by saying as an experimenta-

tion (Tes. p. 1573), to see whether or not it will pay us to maintain such a system of experimental rates, if we get the business we want the business under those rates.

Q. And if you get the business away from the trucks, your experiment is a success?

A. I would not say that; there may be other matters affecting it; I don't know what might come of it. I want to make one more observation before I leave the stand. The Legislature of Mississippi has enacted laws regarding the regulation of trucks. I am not fully qualified as to just what it is, but I made inquiry of one of our more important agents, that is Jackson, Mississippi, as to the effect that it might have upon these rates. I have that letter from him and would be glad to read from it. You are probably a better judge than I am if that would be competent evidence. Our judgment is that after the first of (Tes. p. 1574) the year, when the law really becomes effective, that it will have a decided effect upon the movement of this and other commodities by truck. We have been looking forward to the enactment of it with a great deal of comfort. That law was enacted after we had published these experimental rates.

Cross-examination:

The tariff that Mr. Green introduced was I. C. C. 1137. I don't think Mr. Green intended to say that our rates were [fol. 1461] $12.00 for 25 miles and under. Generally he testified that that was the rate. Ours is 50 cents higher than the general applicable scale, and for the distance 75 miles and 100 miles and over 75 miles $22.50 instead of $20.00.

Q. Yes, that is correct as shown by the photostatic copy. He shows $22.50. You said $20.00, didn't you?

A. No, Twenty-two and a half.

Exam. Hoy: He said that Mr. Green said Twenty.

The Witness: I stand corrected on that. I didn't understand him that way (Tes. p. 1575).

Q. Mr. Gill, did you make any investigation as to the inbound movement of truck to determine whether or not there had been a decrease in the truck movement since you inaugurated these new reduced rates?

A. I did make some investigation, but I was not able to get any conclusive information as to whether or not that was a fact.

Q. You would not dispute the testimony of Mr. True then, that the decrease was 25 per cent into Laurel—the decrease in the truck movement?

A. Well, I practically think Mr. True is correct as to Laurel, but I think I should go a little farther and say that that is not for the short distances, because the business has not increased there, and I believe the trucks are still getting it.

Mr. Buffum testified something about having been at Laurel, and with the Kingston Lumber Company, and the Gulf, Mobile and Northern—was the Kingston Lumber Company, and about some operating conditions due to slides, etc.; and Mr. True said something about a bad op-
[fol. 1462] eration condition due to slides. I don't want the impression to get out that we are the Kingston Lumber Company railroad. We took that line over. When I first came with the property in 1913 they were having difficulty with this slide about 42 miles north of Laurel, which extended over a distance of about (Tes. p. 1576) 6 miles, and there is no unusual operating condition surrounding that particular section now.

Q. You have had something to say about this truck law that has gone into effect in Mississippi on the first of January, 1933. Do you know what the maximum weight limits are for the trucks?

A. I understand that for a Ford or Chevrolet truck it is seven, or approximately seven tons. That is the weight limit under the new law; that is 14,000 pounds. I don't want to leave it with the statement that January first is the effective date. It has been passed, and as I now understand it is now in effect, but due to the fact that the trucks had bought their license already, it seemed almost impossible to check up on them until January 1st, so the practical effective date is January 1st. As to what is the load limit for other trucks, I don't know. The Ford and Chevrolets, and their load (Tes. p. 1577) limit is seven tons, as I understand it, but I don't state that as a fact.

JOHN ROLAND, called as a witness, being duly sworn, testified as follows:

Direct examination:

John Roland, Perry, Florida, Secretary and Assistant Treasurer of Wilson Lumber Company of Florida. I have [fol. 1463] been with Wilson Lumber Company of Florida since 1928, when the Wilson Lumber Company of Florida first started in business. As a part of my duties I am in touch with the circumstances of transportation of logs to our mill, and the weight thereof, and the rates paid thereon. Wilson Lumber Company of Florida first began to ship logs over the Atlantic Coast Line Railroad in Florida (Tes. p. 1578) in 1928, just a few months before the Cummer scale was superseded by the scale prescribed by the Interstate Commerce Commission. When the mill of the Wilson Lumber Company of Florida was built I did not have any information about the proposal to change the rates. Had we had any information that the rates on logs would be more than doubled we would not have built the mill. The Railroads that serve our mill are the Atlantic Coast Line Railroad, the Live Oak, Perry & Gulf Railroad have tracks into our mill, and the South Georgia Railroad serves Perry and reaches our mill by paying a switching charge either over the Atlantic Coast Line or the Live Oak, Perry & Gulf; either one of them will bring them in. Our logs come in mostly by rail. As to what proportion comes over each of the three roads I have mentioned, very few over the South Georgia, and about 50 per cent over the Atlantic Coast Line, and about 50 per cent over the Live Oak, Perry & Gulf, although I do not have the exact figures. As to what rates we pay on logs received via the Live Oak, Perry & Gulf (Tes. p. 1579), the logs that we get over the Live Oak, Perry & Gulf are purchased by us from the Brooks-Scanlon Corporation, and the Burton-Swartz Cypress Company of Florida, and are bought delivered to our mill. The Brooks-Scanlon Corporation delivers them under some [fol. 1464] trackage arrangement with the Live Oak, Perry & Gulf. We have received very few logs by truck. We prefer to use the railroads and we do so if the rates are such as will permit our doing so. As to whether conditions are such that we could receive logs by truck, that is, conditions of the roads in our vicinity and available tracks,

yes. We have had repeated propositions from trucks to deliver our logs to us. We have now a proposition to purchase some fourteen million feet of timber a distance of seventeen miles by the Atlantic Coast Line Railroad from our mill. A hard-surfaced road parallels the Atlantic Coast Line. Under the Cummer scale the Atlantic Coast Line rate for this haul would be 1.71 cents per 100 pounds. The logs weigh 12,000 pounds per thousand feet. Therefore the charge of the Atlantic Coast Line under the Cummer scale would be 2.05 cents per thousand feet. In view of the uncertainty of whether the Cummer scale will continue in effect we have obtained bids for (Tes. p. 1580) trucking these logs under contract, because it would be out of the question for us to pay the Interstate Commerce Commission scale of 3 cents per 100 pounds, or 3.60 per thousand feet. The lowest bid which we received from the trucks was $2.00 per thousand feet. That bid was from a responsible party. That was quoted to carry out the contract; yes sir, he can carry it out in every way. Would it be all right to just read his bid?

"I wish to submit bid $2.00 per thousand feet, Doyle scale, on a tract of logs from Carbur, Florida, to your mill at Perry. In submitting this bid I expect a minimum of [fol. 1465] 25,000 feet per day, or I am in position to handle up to 75,000 feet per day if your need reached such requirements. Yours very truly, J. R. Terrill." Dated November 12.

We have other bids (Tes. p. 1581). If the Cummer scale remains in effect we will handle these logs over the Atlantic Coast Line Railroad as there is very little difference in the cost to us, only 5 cents per 1,000 feet, and we would continue to use the railroad. The revenues of the Atlantic Coast Line Railroad under the Cummer scale on this movement of logs, which I have described, would be around $30,000.00.

As to whether it is feasible to draw logs by trucks other than the logs to which I have been referring on the 14 million feet tract, hard surfaced roads radiate from Perry in three directions, north, south and east, and under the prevailing trucking charges we would draw logs over these hard-surfaced roads for distances certainly up to 75 miles and up to perhaps 100 miles. Assuming that our rates were published per carload to apply irrespective of weight,

I could and would load whatever the load limit of the car might be; if I were furnished with a gondola car having low sides but a capacity of 100,000 pounds I could load it to the load limit (Tes. p. 1582). I would put stakes on it. I have recently loaded such cars. On November 14, 1932, we loaded two cars at Cross City, Florida, and shipped them to our mill at Perry. I have here the expense bills of these two cars. One of them was Atlantic Coast Line 91700, having a market capacity of 100,000 pounds, but a load limit of 120,000 pounds. On this car we loaded 115,200 pounds and the freight charges were $24.19. Had we the [fol. 1466] per car rate that is carried by many other railroads we would have paid for this same transportation $15.00, or $9.19 less than we paid under the Cummer scale. Had we been compelled to pay the scale prescribed by the Interstate Commerce Commission, we would have paid $51.84, or three and one-half times the charges for the same transportation under the per car rates.

The other car was Atlantic Coast Line 91018, also having a load limit of 120,000 pounds. This car was loaded to 117,200 pounds, and we paid freight charges for the transportation from Cross City to Perry under the Cummer scale of $24.61. Had we the per car loads that now apply in a large part of the Southern and Southwestern territories, we would have paid for the same transportation service $15.00, or $9.61 less than under the Cummer scale, and if we had been charged the Interstate Commerce Commission scale we would have paid $52.74 (Tes. p. 1583).

I have in the past loaded cars to 70,000 pounds and over when there was no incentive insofar as the rate charged was concerned to load heavily. It appears from the claim that we filed for restitution on shipments during the period in which the high rates were in effect, that 223 cars were loaded to from 70,000 pounds io 92,100 pounds. I file as my exhibit a list of these cars, and I have here with me the expense bills from which the list can be checked if it is desired.

Exam. Hoy: Exhibit 142 received in evidence.

A. If I could secure the per car rates that have been shown here as being applied by other railroads, I would be willing to operate on them under a transit arrangement with the Atlantic Coast Line Railroad similar to the ar-

rangements which have been described here as being oper-
[fol. 1467] ated by other railroads. There would be no trouble about this because the Atlantic Coast Line gets more traffic from us than the logs which they receive from us would require under a transit arrangement. Most of this traffic they receive, however, at Live Oak, inasmuch as it goes out of our plant on the Live Oak, Perry & Gulf, and is turned over to the Atlantic Coast Line at (Tes. p. 1584) Live Oak. However, there would be no difficulty in giving this traffic to the Atlantic Coast Line at Perry if they desired to receive it there rather than at Live Oak. The reason why the Atlantic Coast Line might prefer to continue to get the traffic at Live Oak as it now does, is because the physical situation of our plant is such that it is much easier for the Live Oak, Perry & Gulf to switch this outbound lumber, and the Atlantic Coast Line would probably prefer to receive it at Live Oak rather than overcome the difficulties it would have in switching the outbound movement. The situation is such that this difficulty does not apply to switching inbound logs.

I have the weights adopted by the Southern Weighing & Inspection Bureau, a representative of the carriers in the South, to be used when the cars of logs are not actually weighed. White Oak weighs 14 pounds to the foot; ash, 10 pounds per foot; magnolia, 13 pounds per foot; maple, 10 pounds per foot; bay, 13 pounds per foot; gum 12 pounds per foot; elm 11 pounds per foot; tupelo 12 pounds per foot; pine 11 pounds per foot (Tes. p. 1585); basswood 10 pounds per foot; poplar 11 pounds per foot; cherry 12 pounds per foot; hackberry 10 pounds per foot; [fol. 1468] hickory 14 pounds per foot; beech 12 pounds per foot; cypress, green, 12 pounds per foot; and cypress, girdled, 10 pounds per foot, log scale. Doyle log scale. The average weight of the various species of woods which we receive, ours are hardwoods and those weights range from 10 to 14 pounds, and we figure an average of 12 pounds of the species that I have just given, except we don't get very much pine or cypress either, mostly tupelo and gum.

A foot by the Doyle scale is—well I will give you for instance a log 16 foot—well, log scale. We will take a log 16 feet long, and 16 inches in diameter contains 144 feet—that is an example. That is by the Doyle scale (Tes. p.

1586) and that is the scale by which these weights are arrived at that I have just given. You take 16 inches, I think, and you take off about 4 inches off the diameter and that will give you 12.

Exam. Hoy: I want to know the difference if I can, the difference between board foot and log foot. This is a log foot that you are talking about.

Mr. Norman: We can tell you Mr. Examiner, what that difference is, though I cannot tell you just how, mathematically they arrive at the feet; but a board scale is what the board measures, an inch thick, by its width and length. Now a log scale is supposed to give you what the log will cut out in board feet. The logs of course will have more feet in them, but there is of course a good deal of waste in it. The log scale is supposed to allow for that waste.

A. (continued) Well, from the diameter of a log you subfract 4 inches. After you subtract 4 inches, divide it, [fol. 1469] take one-fourth of it. When you get one-fourth, square your result, and multiply it by the length. That is the theory of the Doyle Scale. As to which end of the log, big end or little end (Tes. p. 1587) Doyle scale, small end and narrow way, on the inside of the bark.

Cross-examination:

A. The mill of the Wilson Lumber Company is located on the Atlantic Coast Line at South Perry, about a quarter of a mile outside of the city limits at the end of the "Y". It is on also the Live Oak, Perry & Gulf, which comes from the other side of standing timber. We own some small tracts around our mills (Tes. p. 1588), some of them about 30 miles, the nearest is about 17 miles. As to how many feet of standing timber our company has, I could not tell you the exact feetage we have. We have ourselves about 14 million at Carbur, what we have bought, and what we have under option. We have several tracts including that owned, and under option. As to what we had elsewhere—several small tracts; what I call small tracts, numbered in acreage, is from 40 acres up to a section of 640. As to how much standing timber I estimate is in those tracts, including the tract at Carbur, well, I guess we should have around 15 million feet. I spoke of buying some timber:

we have got some of it bought now, and the other is under option (Tes. p. 1589).

Q. I mean buying the cut timber that you get in over the Live Oak, Perry & Gulf. I thought you indicated that you had bought that timber?

A. That comes in under contracts with Brooks-Scanlon Corporation for manufacture in our mills. They own it in fee simple, and sell us; they log the timber and sell us the logs.

[fol. 1470] We are buying the logs from the Brooks-Scanlon Corporation and Burton-Swartz Cypress Company of Florida. As to the amount of our manufacture now, we haven't run but—we run in the month of January of this year, and we are trying to run about one-half time right now, but we haven't got straightened out yet, along about the first of November. We run one day in February and run about maybe two days in (Tes. p. 1590) October of this year.

As to whether we have had any market for our lumber, we reduced our stock as much as we could. As to how much we have on hand now as compared with what we had on the first of January; we have about one-eighth. I have given a list of a number of cars which loaded over 70,000 pounds. I don't mean to say that these are the only cars which were shipped to Perry, to our mill during that period—during the period covered by this exhibit Number 142. As to what percentage of the cars that is, I could not tell. I would not attempt to tell because we have 977 sheets of these cars and we just picked these out. There are here all of the cars contained in our claim for restitution in the Federal Court in Atlanta, Georgia, which were loaded to 70,000 pounds or over.

As to how far would the truck haul be under the bid to which I have referred (Tes. p. 1591), seventeen miles. The bid is made by Mr. J. R. Terrill. As to how many trucks he now owns, I don't know how many, but he is financially responsible. I don't know whether he has any at all now or not. Mr. Terrill has no connection with our company. What I mean by being financially responsible is that he loans money around. I see where the county or some of them are paying him around $20,000 at a time, several times.

[fol. 1471] As to how many trucks it would take to supply our mill, depends on how many logs they wanted from that

particular place, that is, covering only from one particular supply. As to how much we have been getting from that supply when we are running normally, the Brooks-Scanlon wants logs down there and they just let us have the timber as they cut it (Tes. p. 1592). This that I was talking about, that I had bid from the truck, that is not Brooks-Scanlon. He asked how much when we got logs from down there; that has been years ago.

By Mr. Alston:

Q. I want to know how much logs do you get when you are running normally, from that tract from which trucking will be made under this bid which you have mentioned here? I want to know how much you have been getting; your habit to get from that tract?

A. We are not in the habit of getting any. We haven't started. We have gotten some ash off of it at one time; we have gotten that, but we havn't gone out on this contract. From the farthest part of that tract to the Coast Line at Carbur it is about 15 miles. As to how far would a log have to be moved from the forest (Tes. p. 1593) to get to the railroad, fifteen miles; that was the farthest. There were some shorter distances, maybe a quarter of a mile, the first one. It might not be over a quarter of a mile where some of that would start out from. As to how far from where we would get into our main timbers,—hardwood is scattered, so it would be about in different forties. We are not after any pine; it is hardwood; it would be scattered over that tract.

As to whether we can get those logs out of the woods [fol. 1472] very well except by truck,—build railroads, or get them out by trucks, either one. If we built the railroad, in view of the scattered condition we would not have to get them to our road in trucks but use skidders (Tes. p. 1594) and pull them up to the road by power, either gasoline or steam. As to how far we could pull them that way; different skidders have different capacities. Some of them will log a quarter of a mile on over-head skidder on each side of them, and some go out a half mile. The extreme dimensions of our track are 15 miles through the narrow way; that is going to the back side, and if you went to the back side why it would not be over 15 right through there, but you see you have to branch off on both sides of

your main line railroad when you go after it. No road except the Atlantic Coast Line runs in proximity to it. On this our exhibit 142 (Tes. p. 1595)—as to how these distances are from our mill: Miccoukee is 54.2 miles; Williston 98.3; Hildreth 105.2; Homosassa 130 miles; Lamont 22.4 miles; Carbur 17 miles; Cross City 44.2; Hines 34 miles.

I have in my hands a list of a great many stations, not all of them are the points from which we get logs; they are points within 170 miles of Perry on the Atlantic Coast Line.

Q. Then you have gotten logs from many other points than those I have mentioned to you—and I have mentioned all now that are on your schedule, Exhibit 142?

A. Yes, sir, we have gotten logs from other places, many other places, lots of them (Tes. p. 1596), the farthest away from which we have gotten the logs, under any scale, we have gone up to about the limit on that, but I could not tell [fol. 1473] exactly those places; it has been since 1928. We have been operating up until January of this year. As to how far away have we been getting our logs in recents months of operation: right recently, the farthest away we have gotten logs was from Fort White, 99.2 miles.

By Mr. Hillyer:

Q. Mr. Roland, will you describe what a skidder is, with a little more particularity. Is it not a fact that a cable is suspended right through a dense forest where there is no road-way back into the woods where the timber is?

A. That would be an over-head skidder, you would call that (Tes. p-1597), when the log is cut there in the dense timber there is a kind of tong that goes in there and picks up that log, a bicycle that goes out there on a line and fastens on that log and pulls it in; fastens on the log and pulls it, with one end of the log dragging on the ground; one if them usually on the ground and the other one partly suspended in the air, they haul that out of the dense woods up to the highway or railroad on that suspended cable. That is one kind of a skid. Then they have ground skidders; you have to pull those out by hand or by a horse or mule. It is just a cable attached to the log back in the woods, and the other end attached to the engine or skidder or drum.

As to whether we have got any logs from Mount Plym-

outh; yes sir, Wilson Land & Timber Company; I remember that they (Tes. p. 1598) got some one time, but they were sawn down here around Deland. I cannot recall whether we ever got any in Perry or not. Mount Plymouth is about 170 miles from Perry.

[fol. 1474] As to whether we would get logs out of the woods the same way, whether they were going to be moved from Carbur by truck or by rail, we would get them out the same way, there would be no difference in our operations, the majority of them would probably come out there, to Carbur. If we were loading them on the railroad they all would come to Carbur. If we didn't load on a railroad those would get on the highway at different places south of Carbur and north of Carbur; we would bring them to the highway whether they were going on the railroad or on the truck, we would get them out of the woods; we would get them out of the woods the same way.

As to whether Carbur is the nearest place in the tract to the mill, when I say Carbur, there has been a railroad built out from there years ago and that is where Brooks-Scanlon were logging at, and they delivered them to the Coast Line at Carbur. Well, if we built a railroad in there, why we would build a railroad, would not be strong enough to hold these Coast Line cars, and we would haul them up to Carbur on our railroad, our logging road.

Q. And you would do that whether you were going to ship them by truck or by rail?

A. Well by rail, we would get to Carbur, and we would build our own railroad, and probably log most of them; if we didn't build a railroad and had a truck to get them out of the swamp, why the majority of them would come to Carbur (Tes. p-1600).

[fol. 1475] J. E. Preston, called as a witness, being duly sworn, testified as follows:

Direct Examination:

My name is J. E. Preston, I reside in Palatka, Florida, and I am an accountant in charge of all books of Wilson Cypress Company. I have prepared an exhibit in connection with this hearing. The Wilson Cypress Company filed in the United States District Court for the Northern District of

Georgia a claim for restitution in connection with shipments of logs made by that company during the period in 1929, 1930, and the first part of 1931, when the rate prescribed by the Interstate Commerce Commission was in effect. That claim showed the car numbers, the date of shipments, the origin and destination and the weight of the cars so shipped (Tes. p. 1601) during that period. It also showed other information with respect to those shipments. That claim was checked by the Atlantic Coast Line Railroad Company, and the exhibit which I have here relates to the claim as so checked. I have picked out of that claim the cars which were loaded to the extent of 70,000 pounds or more. There were 927 cars included within that claim. My exhibit shows the date of shipment, car number, point of origin, and weight of these cars. This shows the large number of cars which exceeded 70,000 pounds in weight which moved during this period, and the extent to which they exceeded that loading. In this connection it would be noted that there was no inducement to load the cars to any greater extent than 40,000 pounds; that is, the minimum weight required was 40,000 pounds, and the excess was paid for in proportion. These [fol. 1476] loads were carried on cars with a marked capacity of 60,000 and 80,000 pounds. Whenever the load on a car of 60,000 pounds capacity exceeded 66,000 pounds, twice the normal rate was charged for all such excess poundage. The same thing is true when the load on a car of 80,000 pounds capacity exceeds 88,000 pounds. In spite of this fact, and in spite of the fact that there was no inducement for heavy loading, a large amount of excess charge was made and paid by the Wilson Cypress Company on such of these loads as exceeded the capacity of the car, plus 10 per cent.

Mr. Adair: I offer in evidence the exhibit which the witness (Tes. p-1602) has just been testifying about

Exa. Hoy: It will be received as Exhibit No. 143.

A. I have picked out of the same restitution claim of Wilson Cypress Company all of the shipments of logs during the month of November, 1929, from Hines, Florida, to Cross City, Florida. These are all pine logs shipped by the Wilson Cypress Company to the Putnam Lumber Company. This exhibit shows that there were 51 cars during that month. The average weight of these cars was 76,991.37 pounds, and the sum of $109.14 was paid for excess charges on account of the weight exceeding the capacity of the car,

plus 10 per cent. This movement of pine logs from Wilson Cypress Company to Putnam Lumber Company only lasted a few months, and this month shown by this exhibit was typical of the movement. I have here the paid expense bills covering all shipments weighing over 70,000 pounds shown on both of my exhibits.

[fol. 1477] Mr. Adair: If the Examiner please I have here the expense bills which may be measured by the yard rather than by the numbers, and if any party wants to examine them we shall be happy to have them do so, but unless required by somebody I will not encumber the record with them (Tes. p. 1603).

A. There were included in the restitution claim of Wilson Cypress Company 7,200 and some odd cars, I don't have the exact number. As to what proportion of them weighed over 70,000 pounds, the claim covers 207 pages, 80 pages, or about two-fifths of the claim, is made up of estimated weights of 58,500 and 63,500 pounds; thus about three-fifths of the cars, or 4,350 cars, were actually weighed. I have shown that 927 cars of those which were actually weighed were over 70,000 pounds in weight; thus more than one out of every five cars shipped actually weighed over 70,000 pounds in weight. When I say two-fifths of the number of cars in the claim were shipped on estimated weights I mean that under arrangements with the Southern Weighing & Inspection Bureau there were test weights made occasionally, and no actual weighing of the cars constituting the trains during a part of that period; the billing was made on those estimated weights (Tes. p. 1604) which were at one time 58,000 and at another time 63,500.

Mr. Adair: Now, if it please your Honor, we offer to prove by this witness that in the practical operation and effect the Cummer scale in Florida has been, and in the future will be, in substance tantamount to a transit scale, in that substantially all of the manufactured product from the inbound log rates over the Atlantic Coast Line Rail-
[fol. 1478] road passes out over the lines of that company.

Exam. Hoy: Under the order of the Commission reopening the case for further hearing you can show anything respecting any changes in the rates on logs since the close of the last hearing, and the circumstances connected with,

and the conditions which occasioned such changes. Any other testimony as I see it must be excluded.

(Discussion off the record.)

Exam. Hoy: You will have the record note an exception to my last ruling.

Mr. Adair: Which is, I take it, you have excluded the proffer of it?

Exam. Hoy: Yes.

(Discussion off the record.)

Mr. Adair: I offer in evidence this second exhibit, which will be No. 144.

Exam. Hoy: It will be received as No. 144 (Tes. p. 1605).

Cross-examination.

By Mr. Alston:

Q. Mr. Preston, your exhibit No. 143 shows a long list of cars which had weights in excess of the minimum. You said of 40,000 pounds. Was not the minimum 50,000 pounds?

Mr Adair: I think we may save time. I think the record shows that the original order of the Commission which prescribed intrastate rates, prescribed them on a basis of 40,000 pounds, whereas the Cummer scale was 50,000 pounds.

Mr. Alston: You mean the one that went into effect in 1929?

Mr. Adair: Yes, prescribed a minimum of 40,000 pounds.

[fol. 1479] A. On that excess weight the Wilson Cypress Company paid freight on the basis of the rates then in effect.

Q. If a schedule of rates had been in effect during that time on the basis of cars, without regard to weight, the Atlantic (Tes. p. 1606) Coast Line would not have gotten what it did get or any other amount on the basis of the excess weights. Is that right?

A. Well, I don't know as I could tell you that. I would have to go into those figures and check it up and see.

Q. Well, it is not a question of figures right now. The fact, what I am asking is, that if operating on a schedule

of rates which was so much per car without regard to weight, the Atlantic Coast Line would have gotten nothing for that excess weight, for hauling excess weight. Is that not so?

A. I don't see how they could have gotten anything.

Q. 927 cars shown on your Exhibit 143. Have you figured out what the application of any of the tariffs introduced in evidence here today from other roads, if applied to these weights rather than to carloads, would have produced?

A. I haven't figured anything like that; exhibit No. 144 deals with a number of cars where the railroad had collected certain penalties aggregating $109.14 because of the load on the cars exceeding the allowable amounts (Tes. p. 1607). The facts shown in these exhibits of the carrying of excess weights was so, although there was no incentive to the Wilson Cypress Company to do so, because it paid for the excess weight.

Q. If the rate had been by car without regard to weight, [fol. 1480] is it not likely that every one of the cars would have carried as much as could have been put upon it?

A. Well, that is something I could not readily answer. I have nothing to do with the loading of the cars.

Redirect examination.

By Mr. Adair:

Q. Mr. Preston, there is one thing I am not sure that I understood you about that Mr. Alston was asking you. This excess on your No. 144 is charged excess weight. Your direct testimony showed I believe was twice the normal rate that was chargeable for the transportation of the car?

A. For the excess (Tes. p. 1608).

Mr. Adair: Well, the excess is what was over twice the published rate.

Exam. Hoy: Let the witness explain just what he means by the excess on exhibit 144. It may be repetition, but let's have it in there clearly.

Q. I understood you to say Mr. Preston, that for all over the allowable weight in the car that twice the normal rate was charged?

A. Yes sir; that is to say, if the Interstate Commerce rate then prevailing from Hines to Palatka was 6½ cents

per pound if under the stencilled weight of the car, that any amount in weight which the actual logs on the car weighed over and above the stencilled weight plus 10 per cent was charged at the rate of 13 cents per 100 pounds. All of the cars in exhibit 144 are included in exhibit 143 (Tes. p. 1609); 143 included only cars over 70,000, 144 includes some cars that are less than 70,000, every one of [fol. 1481] them, but some few that are not. Exhibit 143 shows that all of these cars originated at Hines, Florida; it undertakes to show that the destination of each one was to Palatka, Florida.

As to what is the distance from Hines to Cross City, I don't know as I can give you the exact distance. I think it is about 12 miles.

Exam. Hoy: Just to clear up this point: are not these two lists entirely separate one for Palatka, and 144 to Cross City, is it not? The caption indicates that. All of 143 went to Palatka, and all of 144 to Cross City?

Mr. Norman: 143 is all cars included in claim for restitution suit weighing over 70,000 pounds wherever it was.

Exam. Hoy: The heading of each sheet shows "Received by (Tes. p. 1610) the Wilson Cypress Company at Palatka". The heading of each sheet—143 that is—I have thumbed through a half dozen——

Mr. Adair: Your Honor, I will have to determine that and either correct the caption or make a statement about it in the morning.

R. C. Baptiste, called as a witness, being duly sworn, testified as follows:

Direct examination:

My name is R. C. Baptiste, and I live at Hines, Florida, Logging Superintendent for the Wilson Cypress Company, employed by the Wilson Cypress Company for the past seven years, at Hines, the logging operation (Tes. p. 1611). [fol. 1482] I have had charge of the logging operation at Hines for the past five years, the logging of the timber of the Wilson Cypress Company in that vicinity during the past five years, and the loading of it upon cars for transportation has been under my charge. The business

of the logging operations of the Wilson Cypress Company are chiefly cypress logging operations; we have in the past cut pine or hardwood. Yes sir, we have cut some on some of the properties we have owned, the pine and hardwood, and when we come to these properties we cleaned it all up. It is just an incident to the cypress logging.

Q. Mr. Baptiste, the testimony given at the former hearings in this proceeding before the Interstate Commerce Commission shows that there are a number of cars of the Atlantic Coast Line Railroad Company which have been equipped by the Wilson Cypress Company for the transportation of logs. Will you please state for the record approximately how many of those cars have this special equipment, what kind of cars they are, that is to say, what type of cars, and how many of them there (Tes. p. 1612) are.

Mr. Alston: May it please the Examiner, we object to that evidence as being without the scope of this hearing. I don't see in just what category it would fall.

Exam. Hoy: You may answer the question.

A. There is 125 of the 80,000 capacity flat cars in our service between Hines and Palatka, and they are equipped with what we call a Phœnix drop top on the side, and we use an 8 foot stanchion. The stencilled capacity of the cars is Eighty Thousand. I would not say they have been [fol. 1483] restencilled in recent years with us. They have at times gone into the repair shops and come out. We are allowed to overload those cars ten per cent. I had charge of the loading of these cars during the period in which the high rate was in effect; the rate prescribed by the Interstate Commerce Commission (Tes. p. 1613).

If we had in effect in Florida a rate which permitted the loading of these particular log cars to capacity, that is to say to 80,000 pounds, and not more than 88,000 pounds, we could load those cars on the average to their capacity.

I have heard some testimony here today about the so-called 100,000 pound capacity gondola of the Atlantic Coast Line Railroad Company. I am familiar with those cars. We have loaded them. Assuming that we had a flat rate in Florida regardless of weights I could load those 100,000

pound capacity gondolas to capacity weight, on the average; there would be no additional expense to loading them that way rather than loading them lighter (Tes. 1614). The only thing that you have to do with a gondola is to put the stanchions in them. We could cut stanchions in the woods, stick them up inside the car, and load the logs.

Cross-examination:

When I said I could load them to capacity I meant the 100,000 pound stencilled capacity or to the capacity above that, the full limit of what would be allowed; we are allowed 10 per cent over weight on the stencilled capacity. That is the limit of the overweight. As to whether they sometimes take an additional overweight subject to the penalty, as is shown in Exhibit No. 144, why if a car gets [fol. 1484] over that it is just something that happens. If we had a rate per car without regard to weight at all, we could load it either 50,000 pounds (Tes. p. 1615) or 100,000 pounds, when the stencilled weight was 100,000 pounds. I could load to the full capacity of the stencilled weight, which in the instance you mentioned, would be 110,000 pounds, and if it were loaded with one weight or the other it would move at the same rate. I cannot testify as to the rate.

W. J. Bryson, called as a witness, being duly sworn, testified as follows:

Direct examination (Tes. p. 1616):

W. J. Bryson, 1704 Avondale, City of Jacksonville. My business, or one of them, is saw-milling. I operate a saw-mill under the name of W. J. Bryson Lumber Company, 27 West Beaver Street—I think 2746 West Beaver, Jacksonville, upon the tracks of the Seaboard. I have a switching connection with the Atlantic Coast Line Railroad Company. The cost to switch a carload of logs from the Coast-line Tracks to the Seaboard tracks is $2.25. I have been operating our mill at that point (Tes. p. 1617), started there in March, 1931. The capacity of the mill is about 25,000 feet a day, but we cut anywhere from 75,000 to 120,000 a week. I have been cutting at that rate since March, 1931. We are closed down now—two weeks ago. I expect

to be closed until about the first of the year and expect to reopen then and operate again if lumber gets better; that is our intention.

As to what proportion of our logs have been moved by truck, and what proportion, if any, have been moving by [fol. 1485] rail, I think we have gotten 27 or 28 cars by rail, and the rest of them by trucks, since March 1931, up to now. Twelve of them come from Dukes, Florida (Tes. p. 1618), a few miles below Lake Butler on the Coast Line; the balance of them are from Cross City, up near Cross City, up there, from point of origin on the Coast Line.

As to what source have our truck logs come generally,—well, from every direction you could mention, and from most any distance from 10 miles to 68 miles. I have hauled substantial quantity of them at more than 50 miles; we have hauled over half a million feet right around 60 to 70 miles; we just got through when we shut down hauling from there, on Penny-Gwinn's property, down next to Green Cove Springs. I will name some few other places: well, off from Bryceville, upon I don't know what railroad that is, of course we haul them by truck from Bryceville, and Baldwin, from south of Macclenny, hauled out from Callahan, off from St. Augustine, Moultrie, Florida, almost any direction (Tes. p. 1619) most.

As to why we haul by truck rather than by rail; we figure it is cheaper at the present freight rates. We cut pine logs. If we were to have in Florida a rate which would permit us to transport at current rates at the level of the current rates as heavy a load of logs as we could load on board cars, to the full capacity of the car, at the present rate, at the price that it costs us at present to transport the minimum car we could afford to operate that way very well, and we would do so.

Cross-examination (Tes. p. 1620):

[fol. 1486] The minimum car I think now is 3,500 feet on the Seaboard, and I think the Coast Line is either 40,000 or 50,000 capacity at the present time. The Seaboard has 3,500 feet, I think that is it.

As to how many pounds we count that, it depends on the scale that you use. If using the Doyle scale, it runs about 11 pounds; if using the Scribben's scale—runs about 10 pounds. If you use the Doyle scale, about 11 pounds—

about 10 per cent difference in the two scales. The Seaboard Air Line minimum, 35,000 pounds, 3,500 feet I believe it is, use 11 pounds; about 38,500 pounds. And the minimum on the Atlantic Coast Line is 50,000 pounds.

As to what I mean then, translated into pounds, the capacity of the car is around 100,000, 110,000 or 120,000 pounds; if we could load the car to the same capacity for the same amount of money of course we could afford to do it; it would pay us to load the logs on the cars and ship them in rather than truck them in. It would be to our interest and of course inclination to (Tes. p. 1621) load the car to the maximum allowed weight because we would be saving so much money on them.

As to the distance for those trucks, I said some might run as high as 70 miles; the last speedometer measurement we taken is 68 miles; of course logging out in the woods on 160 or a section of land it would vary a mile or two one way or the other. I judge the average distance of the average logs would run around 50 miles, by truck. We buy the timber in some instances, and they cut it (Tes. p. 1622) [fol. 1487] and load it on trucks and bring it in; in some cases they furnish the timber, cut it, and bring it in; both ways.

As to whether we buy more where the owner of the timber has cut and brought it in than we do buy f. o. b. our lot, I guess possibly about 50-50. We are shut down now. Our maximum capacity has been 120, I believe, or 122,000 a week. As to how many carloads that is; if you were just loading right now it would run 120, would be about 20 some cars, wouldn't it? Depending on which road you get on, whether Coast Line or Seaboard; it would be about 22 cars, wouldn't it? 24 cars, wouldn't it? We shut down two weeks ago Saturday, for the lack of business orders; just shut down until the lumber got better. Our mill has been operating (Tes. p. 1623) since March, 1931.

As to whether we operate our own trucks, or who owns the trucks that we are using, the men that operate most of the men—you see we buy all of the timber brought in; if we buy the timber we contract with the men to cut it and bring it in to us anyway; we don't operate our own trucks; we buy the timber and they cut the logs and bring them in to us. They contract to get the logs and bring them in to us. The entire expense of the movement into our mill, I pay; they charge so much for the logs, for the cutting, and

so much for the hauling, and delivering to the mill. We have only had one truck I believe, come out of the Okeefenokee swamp (Tes. p. 1624). It is right out of Callahan. We only got the logs from this end of the swamp. The man that was hauling them, I think said it was 42 miles that he hauled them. Geiger was the man who was hauling the [fol. 1488] logs. 42 Miles is what I think he said the distance was. As to how far that timber in the swamp is from the railroad, I don't know; I do not know whether or not it is located with respect to the railroad in such a way that if a man cut the timber and put it on a truck he could better afford to bring it down here than he could to take it to a railroad and load it on the railroad.

About the Penny Farms; we have gotten a good many off from that tract. As to how far that is from Jacksonville (Tes. p. 1625), it depends on what end of the land you are speaking of; there are 124,000 acres, so you see that would run several miles; if you hit one end of it, it would be so much closer to Jacksonville than the other; and we have cut up and down the swamps running up and down.

Q. Is it not a fact that the logs that you have obtained from this Penny Tract have generally moved not over 30 miles?

A. Well, I don't think you could touch any of the land within 30 miles; I don't think that you could touch any of the logs on the Penny Tract under 40 miles. We have got a good many logs from a swamp below Bayard. To Jacksonville I think they claim that is 35 miles where they turn off to go to the woods below Bayard.

As to whether I am personally familiar with the location of that movement—yes sir; know all about it; can tell you whose land cut on; tell you where they turn off; anything that you want to know about it (Tes. p. 1626). As to how far those logs actually move into Jacksonville from Bayard; [fol. 1489] cross the railroad at the 35-mile post to get at the logs; and they were cut on Mr. Williams' land; that is where you cross the Florida East Coast Railroad, in 300 feet of the 35-mile post, go across the railroad and go out in the woods to get them, and went out in the woods about anywhere from a quarter of a mile to three miles.

As to how many logs, approximately, I have gotten from that section, I guess possibly 250,000 feet; divide it by 5 and you would get about 50 cars.

Hilliard is located north of town. I think Hilliard is about 25 miles. I believe it is something like that. As to how many cars I have brought in from Hilliard (Tes. p. 1627), I guess I have gotten at least 100,000 feet there, bought from Mr. Braddock up there. I have not obtained any logs from Baldwin, from Baldwin district, but from different ways of Baldwin; we have gotten a few out there in that big swamp, the Baldwin Bay, they call it. They moved, I judge, about 25 miles. Baldwin from here, I think from the mill—about—I think it is about 17 miles from our mill.

As to whether I have gotten any logs in the neighborhood of Yulee; I think we got a few, a very few from up there; I don't think the logs we got up there would amount to anything. I judge Yulee is about 19 miles, if I am not mistaken (Tes. p. 1628).

H. J. FLACK, called as a witness, being duly sworn, testified as follows:

Direct examination:

My name is H. J. Flack. I reside in Jacksonville, Florida, and I operate a traffic bureau in that city. I am the same [fol. 1490] H. J. Flack who has previously testified in this proceeding. I was employed by the Florida interests to make an investigation of the transportation of logs over six feet long to mills in Florida. Within the last month in my investigation of such transportation of such logs I found a very substantial movement by truck (Tes. p. 1629). The Gem City Builders Supply Company at Palatka, Florida, has a capacity of 20,000 feet per day. It is located on the Atlantic Coast Line Railroad. I looked at the daily book records and talked with the Secretary of the Company. The Company began operations in December, 1931, and since that time has been cutting about fifteen thousand feet a day. It has received all of its logs by truck. It is now in operation and I saw the trucks delivering logs.

The Browning Lumber Company at East Palatka has a capacity of 30,000 feet per day. I saw the daily book records and talked with the Secretary of the Company. During 1930 it handled approximately 3,000,000 feet of logs,

which came from territory reached by the Atlantic Coast Line Railroad Company. It has done very little business during 1931 and 1932. During the three years I refer to, about 95 per cent of the logs have been hauled by truck.

The Southern Veneer Company is also located in Palatka, operating a crate factory. It therefore handles short logs, and I made no particular investigation of mills handling short logs. However, it is located on the Atlantic Coast Line and is receiving logs by truck. Unless otherwise noted, the mills I refer to are all mills handling logs over [fol. 1491] six feet in length.

Conner Lumber Company at Connersville, has a capacity of 20,000 feet a day. It is on the Atlantic Coast Line Railroad (Tes. 1630). It has been in operation since March, 1932, cutting about 10,000 feet of pine a day. I examined the daily book record. All logs are received by truck. I saw the trucks bringing in logs.

The Conrad Naval Stores Company at Barberville is located on the Atlantic Coast Line Railroad, and has a capacity of 12,000 feet a day. It has been operating fairly steadily for 5 years, averaging a cut of about 7,500 feet a day on a 5 day week. I saw Mr. A. L. McKay, the manager, and also the log books showing receipts of logs and other records. It cuts pine logs. It has cut an average of 2,000,000 feet a year. All logs are received by trucks.

The McCormick Lumber Company at DeLand has a capacity of 10,000 feet a day, and is located on the Atlantic Coast Line Railroad. For the last several years it has received an average of 5,000 feet a day, all by truck. I talked to Mr. Willis McCormick, the owner of the mill, and saw the records, including the slips given at the mill with each load of logs delivered, and I saw the trucks.

The Pine Castle Lumber Company at Pine Castle has a capacity of 10,000 feet a day. It operated at about 75 per cent capacity in 1929, 1930, and 1931, and about 25 per cent of capacity so far during 1932. It is located on the Atlantic Coast Line Railroad, but received all of its logs by truck. I saw the daily book record of this mill (Tes. p. 1631).

[fol. 1492] The Green Lumber & Supply Company at Gainesville has a capacity of 10,000 feet a day, and handles about 90 per cent pine and 10 per cent cypress. In 1929 it handled about 5,000 feet a day, and did not operate in 1930 or

1931. This year it has averaged about 40,000 feet a week. Gainesville is on both the Atlantic Coast Line and the Seaboard Air Line Railway. I talk- to Mr. Gray, the manager, and also looked at the daily book records, and saw the trucks delivering logs. Such logs as they get are adjacent to the Atlantic Coast Line Railroad tracks.

The Hall and Turner Lumber Company is located at Putnam Hall on the Georgia, Southern & Florida Railway, and has a capacity of 10,000 feet a day. During the past four years it has operated steadily at the rate of approximately 40,000 feet a week; all of its logs have been received by trucks. I saw the trucks.

The Macclenny Lumber Company at Macclenny, Florida, has a capacity of 8,000 feet a day. It has been in operation for about two years, and handles pine logs. During this time it has operated to approximately its capacity. It is located on the Seaboard Air Line Railway, but has received all of its logs by truck. I talked to Mr. Elliott, the manager, and saw the daily book records of the Company, and saw the trucks delivering logs.

The Tal Young Lumber Company at Lake City has a capacity of (Tes. p. 1632) 10,000 feet a day. It cuts pine logs, and has been handling about 5,000 feet a day for the past two years. It is located on the Seaboard Air Line Railway. I saw the daily book records, and the trucks de- [fol. 1493] livering logs. The logs are all hauled by truck.

The G. R. Hughes Lumber Company at Monticello, located on the Seaboard Air Line Railway has a capacity of 10,000 feet a day. It has been running at half capacity for the last two years. All logs are hauled by truck.

The J. M. Henry Lumber Company at Monticello, Florida, cuts pine logs, and has a capacity of 20,000 feet a day. It is located on the Seaboard Air Line and has been operating at half capacity for the past two years. All of the logs are received by truck. I saw the daily book records and talked with the manager, and saw the trucks delivering logs.

The Tallahassee Lumber Company at Tallahassee, has a capacity of 25,000 feet a day, cutting pine and cypress. It is on the Seaboard Air Line Railroad. This mill handled about one-half million feet in 1930, the same amount in 1931, and about one million feet so far in 1932. All its logs are received by truck.

The Elberta Crate Company at Tallahassee is now cutting logs for lumber. It has a capacity of 25,000 feet a day and has been in operation about six months. It is on the Seaboard Air Line Railroad. All logs were received by truck. (Tes. p. 1633).

By Mr. Gwathmey:

Q. Mr. Flack, I don't want to interrupt you, but if you don't mind I will ask you a question right there while you are on that particular mill. Is it not a fact that mill uses short-length logs altogether? It is in the business of manufacturing crates, is it not?

[fol. 1494] A. They have recently gone into the lumber business as a side line.

The Prine Lumber & Manufacturing Company at Quincy, Florida, is located on the Seaboard Air Line Railway, and has a capacity of 25,000 feet a day. It has been operating since 1929, cutting hardwood and pine. In 1929 and 1930 it operated at capacity, and was then shut down until October, 1931, and has been running about half capacity since that date. All logs were received in the company's own trucks. I saw the daily book records, and the trucks, and talked to the manager of the Company.

The Thomas-Little Lumber Company at Quincy, Florida, has a capacity of 100,000 feet a day. It is located on the Seaboard Air Line Railway, and handles pine and hardwood lumber. During 1931 it handled approximately forty or forty-five thousand feet a day, and in 1932, 25,000 feet a day. All logs were received in its own trucks, and I saw the daily log records, as well as talked to the Manager. I likewise saw the trucks.

The Granger Brothers Lumber Company at Branford, Florida, has a capacity of 35,000 feet a day. It is located on the Atlantic (Tes. p. 1634) Coast Line Railroad and has been operating since October, 1931, at about half capacity. All of its logs have been received by contract trucks or its own trucks. I saw the log receiving records and talked to the manager.

M. W. Mann at Lake Butler, Florida, is operating a mill of 10,000 feet a day capacity. Lake Butler is on the At-

[fol. 1495] lantic Coast Line Railroad. This mill has been operating for the last two years, cutting from 35,000 to 40,000 feet a week. I saw the daily book records, and the

trucks delivering logs. All logs have been received by trucks owned by the Company.

The McCoy Lumber Company at Alachua has a capacity of 10,000 feet a day. It has been handling about 40,000 feet of logs a week for the last three years, cutting pine and cypress. It is located on both the Atlantic Coast Line and the Seaboard Air Line. All logs received by it have been hauled by truck. I saw the trucks delivering logs.

The Dykes Lumber Company is likewise located at Alachua, on both the Atlantic Coast Line and the Seaboard Air Line. It has a capacity of 10,000 feet a day, and cuts pine logs. For the last three years it has been operating at about half capacity. It received all of its logs by trucks. I saw the trucks.

The Baker Lumber Company at Mayo has a capacity of 35,000 feet a day. It is located on the Live Oak, Perry & Gulf Railway, and has been operating about three years at half capacity. It handles pine logs, all of which have been received by truck (Tes. p. 1635). I saw the daily log receiving records, and also the trucks.

L. M. Hamilton at Jasper, Florida, operates a mill of the capacity of 10,000 feet a day. It has been operating for some time at about half capacity. It is located on the Atlantic Coast Line Railroad and the Southern Railroad. It cuts mostly pine, but some cypress. All of its logs have been received by trucks. I saw the original records of the logs and also the trucks.

[fol. 1496] R. J. Rivers Lumber Company at Jacksonville has a capacity of 20,000 feet a day. It is located on the Seaboard Air Line Railroad. It began operations in October of this year, and received 32,000 feet of log in that month. All these logs were received by truck. I saw the log receiving records and the trucks.

I have not included in my report any mills that are in the timber. I found logs moving for distances up to approximately 70 miles. Most of the mills could and did secure their logs within a shorter range. The tendency is for the trucks to go farther out as the timber in the vicinity of the mills is exhausted (Tes. p. 1636).

Cross-examination:

I was employed by the Wilson Lumber Company, and others interested in the case, the Wilson Cypress Com-

pany. As to where the Gem City Builders' Supply Company at Palatka gets its logs, I could not answer that. It gets them within around Palatka there. The logs are brought in by truck. I don't know who they get them from. I don't know whether the Gem Company owns the standing timber or not. I am not sure in this case whether this mill have their own trucks or whether it was done by contract (Tes. p. 1637). I do not know how far it is from a railroad that the logs are loaded on to the truck; all I know is that this mill receives its logs by truck from some timber, I don't know where the timber is, nor who owns it, nor who owns the trucks, nor how far it is away, I didn't ask for that information.

[fol. 1497] The Browning Lumber Company in East Palatka: I don't know exactly what point it secures its logs, but was informed that they secured their logs from points adjacent to the Atlantic Coast Line Railroad. That is information from Mr. C. M. Hyde, secretary of the Browning Lumber Company. As to who owned the trucks that bring in the logs, (Tes. p. 1638) I am unable to state in respect to the Browning Lumber Company; I do not know who owns the standing timber; I don't know how far they must go into the forests to get the cut logs. They must go until they locate the particular tree they want to cut down.

The next one was the Southern Veneer Company at Palatka—that was short logs.

The next one is the Conner Lumber Company at Connersville, just north of Barberville; in other words you leave Connersville, and come to Barberville; (Tes. p. 1639) it is beyond—between Palatka and DeLand. As to whether it owns its timber, I don't know: as to whether it owns its trucks, I am not informed on that in respect to the Conner Lumber Company. As to how far the standing timber is—from which they get their logs, they haul from 10 to 20 miles.

The Conrad Naval Stores Company of Barberville, I think it is Volusia County, I am not sure; it is beyond Connersville. The Conrad Naval Stores Company does not own the timber from which it gets its logs. I don't know who owns it. It owns its trucks, and contracts some of its hauling. (Tes. p. 1640). It hauls the logs up to 12 miles. The trucks go into the woods to get the logs up to 12 miles. As to how far do they go into the forest to get the logs, I

don't know. The McCormick Lumber Company of De- [fol. 1498] Land: DeLand is about the middle peninsular part of the State; it is down there in Volusia County. Their logs are hauled by contract trucks a distance up to 25 miles. As to who owns the standing timber from which the logs come, I am unable to answer you. I am not able to answer how far into the forest those trucks must go. (Tes. p. 1641).

Q. Now I have a list Mr. Flack, of each of the places which you named. I should like for you to go down your list and answer as to each the following questions: First, what county is this place located in? If you know who owns the standing timber as to any of the other companies named by you, please pick out that company.

A. It is hard to give you that specifically, because not reporting on any particular mill as located in the timber.

Q. I want you to make whatever answer you ought to make to that question, if you want the question asked in that form. If you know, I would like to have you state it, and if you don't know, I would like to have you say that—whatever answer is fair. (Tes. p. 1642.)

A. Why, I maintain that the answer I gave is the answer that applies.

Q. I construe that as meaning that you don't know the ownership of the standing timber from which any of these mills get their lumber?

A. That is correct.

Q. Now, as to any of these companies, state if you know who owns the trucks?

A. Pine Castle, Orange County; it does not own its standing timber; it owns its trucks. As to how many has it got, (Tes. p. 1643) I don't know. As to how far the mill is from the timber, maximum 25 miles, the average—five to 25 miles. I don't know how far does it go into the forest for the logs. [fol. 1499] Green Lumber & Supply Company, at Gainesville, Alachua County. Unable to say who owns the timber from which it gets logs. The lumber company own- their own trucks. I don't know how many. The timber is 25 miles from the mill; the average haul—five to 25 miles. I don't know how far they go into the forest to get the cut logs. (Tes. p. 1644). Macclenny Lumber Company:

By Exam. Hoy:

Q. Excuse me—what do you mean when you say "average haul 5 to 25 miles"?

A. Well, his average, that is his operation, 5 to 25 miles. Previously he asked how far it was to the timber and I said 25 miles; that is his maximum. He could figure the average. The haul is from more than one parcel of timber, different tracts. What I meant in replying that it is 25 miles to the timber, that that is its farthest haul from any particular timber has been 25 miles. I do not know what his average haul is. I know what his nearest point is, and his maximum (Tes. p. 1645), his farthest point. I don't know what his average point is. When I say that his average is from 5 to 25, I mean his range is from 5 to 25 miles. Hall & Turner Lumber Company, Putnam County: I don't know who owns that standing timber from which it gets its logs. The lumber company owns the trucks used by it. I don't know how many. I am not informed who owns the timber from which it gets its logs. The trucks that go into the forest to get the cut logs haul from up to a distance of 40 miles. The range is from 5 to 40 miles. Macclenny Lumber Company (Tes. p. 1646), at Macclenny, Baker County, Florida: I have no information as to who owns the timber from which they get logs. The lumber company owns the trucks. They haul 5 miles. Tal Young Company, Columbia County, Lake City, Florida: I don't [fol. 1500] know who owns the standing timber from which they get their logs. As to who owns the trucks, I haven't any information. I don't know how many trucks they use. Their haul is a distance of 10 to 20 miles. G. R. Hughes, Monticello: I don't know who owns the standing timber from which it gets its logs. As to who owns the trucks it uses (Tes. p. 1647), I cannot give you that. I don't know how many trucks it uses. It hauls twenty miles: all of his logs are hauled for a distance of 20 miles. I don't know how far it goes into the forest for its logs. J. M. Henry Lumber Company, Monticello: I do not know who owns the standing timber from which it gets its logs. As to who owns the trucks used by it, I haven't that information. I don't know how many trucks it uses. It hauls 20 miles. Its total haulage there was 20 miles. I don't know how far does it go into the timber. The Tallahassee Lumber Company (Tes. p. 1648): I don't know who owns its standing timber. As to who owns its trucks, or the trucks used to bring in its logs, I am not clear on that. As to how many trucks they use I have no report. The haul there

ranges from 10 to 40 miles. I don't want to give you an average. Elberta Crate Company, Tallahassee: I don't know who owns the standing timber from which it gets its logs. I don't know who owns the trucks that bring in its logs. I don't know how many trucks are used. Its haul (Tes. p. 1649) is forty miles; for the average, I don't know. As to how far it goes into the forest for its logs, I don't know. The Prine Lumber & Manufacturing Company, Quincy: I don't know who owns its standing timber. The lumber company owns the trucks that bring in its logs. I don't know how many trucks. It hauls from 5 to 35 miles. I don't know what the average is (Tes. p. 1650). [fol. 1501] I don't know how far do the trucks go into the forest. Thomas-Little Lumber Company, Quincy: I don't know who owns the standing timber from which it gets its logs. The lumber company owns the trucks that bring in these logs. As to how many trucks does it own and use, I don't know; quite a number, however. I don't know exactly how many. Its haul is from 5 to 28 miles. I don't know the average. I don't know how far the trucks go into the timber—or into the forest for the cut logs. The Granger Brothers Company, Branford. As to what County that is in, I don't know. I don't know who owns the standing timber from which it gets its logs (Tes. p. 1651). The lumber company owns the trucks which bring in its logs. I don't know how many trucks does the lumber company own. Its haul is 25 to 30 miles. I don't know what the average is. I don't know how far the trucks go into the forest for the cut logs.

By Mr. Adair:

Q. Mr. Flack, do you know that they go into, any of these trucks go into the forests at all for cut logs, or whether they bring them out on the road, or what?

A. No, I don't know their plan of operations there. M. W. Mann, Lake Butler. That is on the Atlantic Coast Line, in Union County. I don't know who owns the standing timber from which it gets its logs. The lumber company owns the trucks used to bring out the logs. I don't know how many trucks does it own and use (Tes. p. 1652). It hauls all of the distance ranges from 4 to 20 miles. I don't know what the average is; I don't know how far the trucks go into the timber for the logs. McCoy Lumber

Company, Alachua, Florida; that is on both the Atlantic Coast Line and Seaboard Air Line. I don't know who owns [fol. 1502] the standing timber from which it gets its logs. The lumber company owns the trucks used in bringing out the logs; I don't know how many. It hauls its logs ten miles. I don't know how far the trucks go into the timber. Dukes Lumber Company, Alachua, Florida, on the Atlantic Coast Line and on the Seaboard (Tes. p 1653), I don't know who owns the standing timber. The lumber company owns the trucks used in getting out these logs. I don't know how many trucks it owns and uses for that purpose. It hauls ten to 15 miles. I don't know the average. I could not say how far the trucks go into the timber. The Baker Lumber Company at Mayo on the Live Oak, Perry & Gulf. I am not sure who owns the standing timber from which that company gets its logs. The lumber company owns the trucks used in bringing out the logs. I don't know how many trucks it owns and uses for that purpose. Its haul is 10 miles. As to how far the trucks go into the timber (Tes. p 1654) I don't know. L. M. Hampton at Jasper, Florida, on the Atlantic Coast Line and Southern: I don't know who owns the standing timber from which it gets its logs. The lumber company owns the trucks used for that purpose. I don't know how many trucks. It hauls twenty-five miles on the average. I don't know how far the trucks go into the timber. R. J. Rivers Lumber Company in Jacksonville, on the Seaboard Air Line: I don't know who owns the standing timber from which it gets its logs. The lumber company owns the trucks used by it in bringing in the logs. I don't know how many trucks it owns and uses for that purpose. As to how far it hauls (Tes. p 1655)—40 to 45 miles, I don't know what the average is. I don't know how far the trucks go into the timber. These mills are very widely scattered over this [fol. 1503] State, from Tallahassee down into the latitude of about the middle of the state, middle of the peninsula. The extreme distance from the farthest of these points would be not over 300 miles. These mills that I have reported on are all more or less active mills at this time. As to what percentage they represent of all the mills in Florida, I don't know what percentage. It does not represent all of them.

Q. Now Mr. Flack, it is perfectly clear that some of this lumber—some of these logs are going to be hauled by trucks under any circumstances. Do you not think that is so?

A. Well, it is possible that some of it, yes, not all of it (Tes. p. 1656).

Q. But is it not certain that some of it is going to be hauled by truck under any circumstances that you can reasonably imagine?

A. I imagine so. The operators have equipped themselves with these trucks, they are not going to junk the trucks you know.

Q. But even if they are not going to buy new trucks, the economic condition will always require hauling some of these logs in trucks?

A. That is more convenient.

Redirect examination:

A. Some of these logs here to which Mr. Alston has here referred will be hauled in trucks under any circumstances.

Q. Now, what do you think will happen if this Cummer scale of rates is kicked up to twice its present level, will that be inclined to increase or decrease the number of hauls in trucks?

Mr. Alston: We object to that.

Exam. Hoy: Go ahead and answer the question.

A. I think it will substantially increase the truck movement (Tes. p. 1657).

[fol. 1504] Jacksonville, Florida, November 22, 1932.

T. M. True, recalled as a witness having been previously sworn, testified as follows:

Direct examination:

I am Secretray of the Southern Cypress Manufacturers Association. The Putnam Lumber Company is a member of that association. Mr. Fleishel is president of that company, of the Putnam Lumber Company.

Q. Did you have anything to do with the preparation of restitution claim of the Putnam Lumber Company arising out of alleged sums to be due for the difference in the rate applied and the Cummer scale during the period of the Interstate Commerce Commission prescribed rate in 1929, 1930, and a part of 1931?

A. Yes, sir; I prepared that claim for them, the Putnam Lumber (Tes. p. 1659) Company, because the Putnam Lumber Company is a member of our association, and that is one of my duties. I handle matters of that kind. It was done as a part of the service performed to the membership.

This statement is entitled "Shipments of 70,000 pounds to Putnam Lumber Company (Cross City, Florida)". This exhibit represents shipments weighing over 70,000 pounds shipped from various origin points to Putnam Lumber Company at Cross City, Florida; and this exhibit shows the date of shipment, origin, car number, and the weight of all of the cars included in my claim for restitution weighing 70,000 pounds or over. There were 107 cars from Carbur out of a total movement of 589 cars that weighed over 70,000 pounds. That was during the period of the high rate, when the (Tes. p. 1650) minimum car was 40,000 [fol. 1505] pounds, excess in proportion, and when there was no particular reason for loading beyond 40,000 pounds. I can look at those car numbers and tell what the capacity of those cars were. Most of them were 80,000 capacity cars. Down towards the last are a few cars that were loaded beyond 88,000 pounds, the last six cars in the statement. Those were 80,000 capacity cars, and the tariff requirement is that a car that is loaded in excess of ten per cent of the marked capacity, that excess shall be cleared at double the going rate. That is true in Florida; it is not true elsewhere. It is not true everywhere else. I do not know anything about the capacity of the cars that were not loaded up to or over 70,000 pounds that were used in the shipments of 589 cars referred to in the statement (Tes. p. 1661).

Exam. Hoy: It will be received as Exhibit 145.

A. Those were cypress logs.

Cross-examination:

A. The minimum weight at the time these shipments moved were made, was 40,000 pounds, based on the rate prescribed by the Commission. Under the order of the Commission it is 40,000 pounds, the present scale. The

Cummer scale is 50,000 pounds (Tes. p. 1662). If we had a flat car rate without limit to weights at the time these cars moved, of course the Atlantic Coast Line would not have received pay for hauling any of this weight above the minimum—would not get any more money.

Q. Have you figured out on this exhibit 145 how much the Atlantic Coast Line would have lost on that kind of a [fol. 1506] rate applied to the cars listed in exhibit 145 (Tes. p. 1663), the difference in rate.

A. No, I have not. As to motor truck regulation in Florida, I am not well-informed on truck regulation (Tes. p. 1664).

Mr. Allair: I have here the expense bills covering those cars if anyone would like to examine them.

Mr. Gutheim: If your Honor please, in respect to conditions under which logs are transported in Florida, and in this other Southern and Southwestern territory, we desire to put in evidence certain road maps. I may say in that connection we endeavored to obtain official government road maps, and the Bureau of Public Roads of the Department of Agriculture advises us that there are none such. Under the circumstances we have here, and now offer copies of the standard American Automobile Association road maps, certified to be such by its secretary under the seal of the American Automobile Association for the State of Florida; for the Southeastern territory, as they describe it, which is approximately what we call Southern territory; and for South Central territory, as they describe it (Tes. p. 1665) which embodies what we know as Southwestern territory, from St. Louis to the Southwest. Three exhibits, two copies of each of the three. Mark them 146, 147 and 148. The Florida 146, the Southeast territory 147 and the South Central 148.

Exam. Hoy: Received in evidence.

H. P. Norden, called as a witness, being duly sworn testified as follows: (Tes. p. 1666)

Direct examination:

My name is H. P. Norden; I am assistant general freight agent for the St. Louis-San Francisco Railway, located in

[fol. 1507] St. Louis, Missouri. I have been in the railroad traffic business for approximately 26 years. I am now working for the receiver of the Frisco road. Prior to the publication of these rates on a per car basis the Frisco Railroad along with other West Side (Tes. p. 1667) lines had in transit rates on logs and rough material on a per hundred pounds basis; and as a matter of fact those rates on per 100 pounds basis still remain in effect. They alternate with the per car rates.

In March of this year the Southwestern lines had a joint conference with the logging interests of Arkansas, including two representatives of the Southern Hardwood Traffic Association located in Memphis, Tennessee, and this situation was gone into very thoroughly.

The carriers had found that their log traffic, particularly the short hauls, had been lost to them; so in this joint conference the scale of rates was discussed which might bring the traffic back to the rail lines. Now, the log interests at that time stated that regardless of what rate was published for distances 25 miles and under it would be practically impossible to get that traffic. However, for over 25 miles a scale was suggested, and which the log interests felt would return the traffic to the rail lines.

As to whether there was anything stated in that conference as to the experimental nature of the tariffs, yes. The proceedings of the meeting as written up provided, and was agreed to by the shipping interests they represented, that these per car rates were to be subject to the usual transit requirements. In other words——

Mr. Adair: Your Honor, we are trying to be liberal about (Tes. p. 1668) this thing, but it is not shown that any of our people were parties to that conference there, and the tariffs [fol. 1508] here speak for themselves. Some of them are transit arrangements; some are not transit arrangements. If he is going to testify about what are in those tariffs, let him look at the tariffs and testify about them, if your Honor please, rather than testify about what they said was going to be in the tariffs.

The Witness: I will do that too.

Mr. Alston: Your Honor, in reference to the fact of the presence or absence of the intervenors, the circumstances under inquiry are the circumstances which brought about the change in the rates, and we are not undertaking to bind

them, but we are undertaking to prove what those circumstances were, if we may do so.

Exam. Hoy: I think the question certainly is proper so far, so far as I can see at this time. You may continue.

Q. Mr. Norden, would your railroad have put in the rates referred to except on a transit basis?

Mr. Adair: We object, your Honor, what they would have done. The point is, what did they do.

Mr. Alston: We will show what they did do.

Mr. Adair: I know, what they would have done is not material here. The point is what they did do.

A. These rates were put in on a (Tes. p. 1669) transit basis over our road. The terms of the transit are defined in the tariffs. And in connection therewith I might state Mr. Alston that Mr. Green in his testimony stated that all of the 'Frisco issues outlined in Exhibit 134, of his exhibit, were local in their nature, which is absolutely incorrect.

As to what has been the effect of these tariffs on truck [fol. 1509] competition, we haven't made a complete examination at all points, but we have as to certain points, and we find that while it has brought back to the rail lines some of the short-haul traffic, it has not brought back as much as we anticipated. Our tariffs apply up to 100 miles. I mean by the short distance traffic, I would say from 25 to 75 miles. That is in connection with my answer that it has brought back to the rail lines some of the short-haul traffic. I mean traffic between 25 and 75 miles, but not as much as we expected (Tes. p. 1670). As to the result as to traffic up to 25 miles with the exception of a few cars we have not received any of that traffic, which bears out the statement made by the shipping interests at our joint conference. Those tariffs carry an expiration date, and with the further provision that they may be sooner cancelled, changed or extended.

Q. Mr. Norden, a little while back you made some statement in reference to the understanding with the shippers as to the nature of this rate. If you have a memorandum on that, will you please read the memorandum itself.

A. I have the proceedings; yes.

Mr. Norman: If the Examiner please, he has a memorandum prepared by the railroads, which is certainly a self-serving document, and it does not seem to me under any theory it is proper.

The Witness: Mr. Examiner, it is not prepared by the railroads. This memorandum of conference was prepared and signed by C. A. New, assistant secretary manager of the Southern Hardwood Traffic Association. It is a statement of what took place at the (Tes. p. 1671) meeting, signed by Mr. New with the Southern Hardwood Traffic wherein he makes this statement as to what was agreed to, and addresses it to all parties that were represented at that meet- [fol. 1510] ing. That was accepted by the railroads as a correct statement. I was personally present at the conference.

Exam. Hoy: I think the memorandum is proper.

Mr. Adair: Note our exception to that ruling, your Honor.

Exam. Hoy: The record will show the exception.

A. (continued:) It states in part the carriers agreed to establish and shippers agreed to accept the following rates on logs, bolts, billets, rough staves, and heading, for single-line application, subject to usual rough material rules and shipping requirements.

The rates are to be issued by the carriers experimentally in an effort to meet highway competition, and will be published at the earliest possible uniform date; also to expire by (Tes. p. 1672) limitation December 31, 1932. Shippers agree not to litigate withdrawal of those rates at that time if carriers decide to let same expire. Shippers will undertake to give the rail lines all business possible in order to justify them in operating these rates. As a member present at that conference that is a correct statement of my opinion of what was agreed upon. There is not a thing in there other than the lines mentioned.

Mr. Adair: We are willing to have copies made of this and submitted as an exhibit.

A. The statement shows who attended that conference (Tes. p. 1673).

The Frisco Railroad operates both east and west of the Mississippi River. Now, as to west of the River we don't come in competition with the Illinois Central, Mobile & Ohio, or the Gulf, Mobile and Northern. East of the River we do come in competition with those railroads in the state [fol. 1511] of Mississippi and also in Alabama. Our railroad gets down into Florida. We operate east of the River from Memphis to Birmingham, a distance of 251 miles, and

then a line running from Amory, Mississippi, to Pensacola, Florida. Our mileage, however, in Florida is very slight, about 50 miles. There is some local traffic in there, but not much. It is in to Pensacola (Tes. p. 1674). The rates which I have mentioned are applicable generally over the lines of the Frisco. That is you are talking about now in Mississippi and Alabama? They are not applicable generally over the entire system. They are only applicable within Arkansas, within Missouri, and interstate to points in those states from the other states. In other words, they are not applicable on traffic originating at points in Oklahoma, and distant points in Oklahoma; nor are they applicable on traffic originating in Oklahoma, and moving interstate to points in other States; nor are they applicable in the State of Kansas. We operate in Texas. Logs move in those States which I have referred to not being covered by these tariffs. They move in quantities and are continuing to move. As a railroad man experienced in these transactions I do not regard this truck situation as (Tes. p. 1675) a settled one, or as the regulation thereof as settled. By that I mean the conditions under which we are operating today, or as to truck movements, are somewhat different than as to which we expect to be confronted with in the future. In other words, we expect certain regulation which will have an effect upon the truck movement. Our railroad east of the Mississippi has close competition with the Illinois Central, and the Gulf, Mobile & Northern, and other roads. We have so-called "cross country" competition. We did, as a matter of fact while I believe I stated—no, I didn't either, I didn't state it; while we put [fol. 1512] these per car rates into effect west of the River on June 10th of this year, we didn't publish them east of the River until I believe it was August 23rd, and then only published them east of the Mississippi River, because of the competition with the other lines who had put in that scale or rates approximately the same at points in Mississippi, Tennessee, and Alabama. In other words, we found that traffic was being trucked from our rails to cross-country points on the Illinois Central and other lines that had established this scale. By "cross-country" competition I mean the timber as a rule is located between two railroads (Tes. p. 1676). The traffic, or the log traffic must be trucked to some railroad, it can as a rule move either way, and it will move to the point that has the lowest rate.

except of course road conditions may have somewhat to do with it, except for extraordinary circumstances. The lower rate will of course move the traffic. Those conditions of competition have influenced the Frisco in putting on those rates. They did east of the River, as we had fully made up our mind as we were not going to extend these per car rates beyond the states of Arkansas and Missouri.

Cross-examination:

By Mr. Guthelm:

Q. Mr. Norden respecting your disagreement with Mr. Green as to the character of these rates—take for instance your Frisco Supplement 28 to I. C. C. No. 9195—the same document, Supplement No. 1 to I. C. C. 9639. Will you say what there is, starting with the cover page, to indicate whether the rates in question are local or proportional rates or transit rates.

A. Yes, sir; the title page itself says "When for dressing, stacking, or further manufacture and reshipment, as shown in Item 15", and then referring to Item 5 of the tariff it reads (Tes. p. 1677): "Rough material rates [fol. 1513] named herein are conditioned upon the finished products being reshipped via this line, and may be used only subject to the following conditions." That is Item 5. The tariff states the conditions upon which these rates may be used. That is Item 5. As to whether that Item 5 is referred to on the cover page, the lumber tariff procedure is not necessary. Does not, but it refers to Item 15. Item 15 is articles upon which rates apply. I don't want to read the entire item, because it is pretty lengthy. It is a list of commodity descriptions. Commodity descriptions in paragraph B of the item says "Rates named herein in column 1 apply only on articles named for stacking, dressing, creosoting, kiln-drying, or to be (Tes. p. 1678) manufactured into lumber, or articles specified on pages 10 to 12 inclusive, and forwarded via the St. L. F. S. Railway at full published rate applicable from transit point". That is not in the Item 5; that is not referred to on the cover page. That is on Item 15, referred to on the cover page.

Q. Now, refer to Supplement 1, and to that section which shows the rates that are here in question on logs, and will

you say what there is there that lays down any transit restrictions other than those, whatever they may be, that you have already referred to, as contained in this tariff.

A. There is not a thing, and any tariff man knows it is not necessary. I have answered the question.

Q. Well, is there anything in this Supplement 1 on this second page, page 2, where the rates are specifically named, that lays down any transit restrictions other than what you have heretofore referred to as contained in this tariff, such as they are?

[fol. 1514] A. I think the question is ridiculous, myself.

Q. Answer it.

A. No, not in that Supplement 1; no, sir.

Q. Not so ridiculous when we get the answer.

A. Those rates are in the tariff, and the Commission has ruled, (Tes. p. 1679) and we all know it, that all the conditions are applicable thereto. All of the rules as published in that tariff are applicable to the rates published therein.

Q. Now, are there any other rules in that tariff with respect to these rates in issue that in any way further conditioned them with respect to transmit regulations other than what you have now referred to?

A. Item 5, with all the other rules contained in the tariff, govern these rough material per car rates.

Q. And Item 5 is the one that is not referred to on the cover page?

A. No, sir. Now, as a matter of fact Item 65 is not referred to on the cover page. Other items shown in the tariff which govern these rates are not referred to in the title page. In other words, Item 65 is the item that outlines the percentage requirements outbound versus the inbound tonnage.

Q. Now, other than the explanation that you have made with respect to this particular tariff No. 9195, and No. 9639, are there any other provisions in any of the other Frisco tariffs referred to by Mr. Green which lay down any other transit conditions beyond what you have referred to with respect to this tariff?

A. All of our transit tariffs, and I think you will find that they are all exact or practically the same in Item 5, [fol. 1515] which is the first item of each and every tariff, carries the provision (Tes. p. 1680) that I read in the rec-

ord before. As to the value of that provision, if any, to the Frisco railroad, that item specifically provides that the rates named herein are conditioned upon the finished products being reshipped via this line, and may be used only subject to the following conditions. Under that provision, logs that originate in our local territory and move into mill points under these very low rates, is manufactured, and we can then control the movement outbound. In other words, on that outbound traffic we receive our local rate from the mill points. The value of it is to guarantee to the Frisco outbound revenue that it might not otherwise get. That is the intention of the tariff, and hooks up this inbound movement, which in and of itself would not be attractive to the inbound line, but when that revenue is hooked up with the outbound revenue that is another story. And to the extent that the Frisco railroad would not get that outbound revenue, the revenue on the shipment, if the (Tes. p. 1681) shipment were made, would then possibly accrue to some other railroad. It is more than posible if the shipment is made and we don't get it, that some other railroad gets the revenue. That is true, but we would not have these rates in if we were not sure of that. Our local log rates are materially higher than this scale. As to what is the method of procedure under which this transit rule that I have described is operated with respect to the in-and-out traffic, I presume you have reference to contract arrangements and bond, and that sort of thing. A shipper that will file or sign a contract to reship via the Frisco railroad, the percentage proportions as required under the tariff, and within the period as shown therein, his inbound logs, bolts, or billets will be [fol. 1516] billed at the rates shown in the tariff. However, if he does not sign this contract and file bond, the inbound material is billed at the local log rates, and then when he surrenders tonnage, upon an evidence of reshipment, we will through claim channels refund him the difference between the local log rates and these low rough material rates. If he signs the contract, the inbound shipment of logs is (Tes. p. 1682) originally billed at the lower rate; if he signs a contract, and furnishes bond; yes. If he does not sign the contract and furnish the bond, the higher rate is charged, but on submission of certain evidence of shipments it may be adjusted to the lower rate.

Q. Now, take the first case of the shipper who signs the contract and the bond. Is there any transit accounting at the milling point of showing the balance of the inbound log tonnage against the outbound lumber tonnage kept?

A. In so far as the records of the railroad are concerned, no. The tariff provides that—and the contract—that we have the privilege of checking up the records of the mill at certain periods, and this is done by the Western Weighing & Inspection Bureau. Now, as to the second case, when the shipment is originally billed in—the log shipment—at the higher rate, and refund is made then to the lower rate upon the submission of certain evidence, that is in the ordinary claim channels.

Q. On this same tariff Mr. Norden, 9195, as supplement 28, and No. 9639, supplement 1, is it correct to read the title (Tes. p. 1683) page as indicating that that supplement carries first local joint and proportional rates on certain [fol. 1517] materials or commodities described in Item 15-A, and also carries distance rates applying between points in Arkansas, Mississippi, Missouri, and Tennessee on the St. Louis-San Francisco Railway and Memphis, Tennessee, which latter rates are not shown on the cover page to be in any way tied up with Item 15-A?

A. I don't know just what you are driving at; I don't fully understand your question, but the title page carries in a general way what is carried in the tariff. Now, all of the provisions and restrictions as carried in a tariff cannot and are not shown specifically on the title page, if that is what you mean.

Q. What I want is, whether the last item on the cover page entitled also "Distance Rates" is tied up there in any way with that item 15-A?

A. Not according to the title page, no, but the provisions of the tariff in the tariff cover all of the rates as shown in the tariff. In other words, Item 5 specifically provides "Rough Material rates named herein".

Q. Will you tell me what is the reason for differentiating (Tes. p. 1684) between rates that are subject to 15-A and rates that are not shown as subject to 15-A?

A. I don't know as there is any use to argue the application of the tariff, Mr. Examiner. The tariff is on file with the Commission.

By Exam. Hoy:

Q. On the question as to the title page.

A. The title page, as I say, does not carry all of the restrictions.

Exam. Hoy: Now, the question is, was there any particular reason for so differentiating on the title page. Isn't that it Mr. Gutheim?

Mr. Gutheim: Yes.

[fol. 1518] A. I cannot see that there is any differentiation on the title page.

Exam. Hoy: All you have to do is to answer that question as to the title page.

Mr. Alston: Your Honor, let me make this suggestion here. I don't read this title page as Mr. Gutheim reads it. With reference——

By Mr. Gutheim:

Q. Now, after the last item on the cover page of this tariff, which reads "When for dressing, stacking, or further manufacture and reshipment, as shown in Item 15-B" the (Tes. p. 1685) remaining language is also distance rates applying between points in Arkansas, Mississippi, Missouri, and Tennessee on the St. Louis-San Francisco Railway and Memphis, Tennessee—there is nothing on this cover page that in any way ties that particular provision up to 15-A, or 15-B, is there?

A. No, sir. Go to page 2 on this supplement, under the title "Miscellaneous rates" are there shown mileage rates to Memphis, Tennessee. As to whether there is anything in that section naming mileage rates to Memphis, Tennessee, that in any way ties those rates up to 15-A or 15-B in this supplement, in this particular item. This item 136, there is no reference in that item itself that hooks it up with anything in the tariff.

Exam. ——: Well that answers the question. (Tes. p. 1686).

A. These arrangements, according to my description of them, are of rough materials, arrangements tying up the rough material inbound with the outbound lumber, they are not in the true sense transit rates, where the through rate

from original point of origin to final destination applies plus a transit tariff for stoppage. There has been a large [fol. 1519] falling off in log traffic in the past 6 or 8 months of all kinds, whether it moves by truck or by railroad. Undoubtedly. That is not the last six months—in the last two years. I don't know as it is any more so than it has been for the past year, that is prior to the last six months.

Q. Now, what investigation did you make to determine whether you were getting a larger proportion of the log traffic that was actually moving since you put in these per car rates.

A. I testified that we were getting some more than we did before. (Tes. p. 1687) As to whether I know anything about whether that is a very considerable larger percentage or not is moving that we were getting before; as to the percentage proportion of the traffic that we are now receiving is to the whole, I don't know. But I say this, that what we have received has not been what we expected. What anybody has received in the last 6 or 8 months has not been what they expected. We could cancel these tariffs at any time we wanted to. We haven't done so. The traffic committee of the West Side lines has decided to extend those tariffs for another year from their present expiration date.

Q. So your experiment with them at least has not proved as yet to be a failure, according to your own conclusion?

A. No, we are still experimenting; we are hoping that we will get this short-haul traffic back. (Tes. p. 1688) We want to get all the business under these tariffs that we can get. We operate these rates in the State of Florida. As to the particular competition that we meet in the state of Florida hat has necessitated our establishment of these rates, as I stated before, we have a very short mileage, and when we published these rates we applied them over our [fol. 1520] entire line, that is east of the River. Now, as to competition in Florida, we run from Atmore, Alabama, just north of the Florida line to Pensacola, and we are in competition with the Louisville & Nashville in that territory only. The Louisville & Nashville being one of the Atlantic Coast Line family don't carry these rates. Therefore we don't have to do it in order to meet any Louisville & Nashville competition. But there is no reason as we saw it—we had them in down to the Alabama-Florida State line—why for this additional few miles we should provide for confining the application.

Q. You don't think it would put any burden on interstate commerce (Tes. p. 1689) in Florida, that it didn't put anywhere else. In other words, you didn't think it put a burden on interstate commerce to operate them in the State of Florida any different from what it might or would if you operated it anywhere else?

A. If you were to call it a burden, I would say no.

Mr. Norman: Well I agree that it is not a burden—that is all.

Redirect examination:

A. We have very little revenue from the logs which we haul on the mileage between the Alabama line and Pensacola, which I have testified is the only mileage we have in the State. It is an inconsequential thing. Let us go back to these tariffs, the front page of this tariff No. I. C. C. 9639, it applies on certain things, including wooden bolts, and lots "as described in Item 15-A". There are bolts, logs and various other items.

Q. Yes, sir. Then a little further on it states that "when for dressing, stacking, or further manufacture" a requirement (Tes. p. 1690) as shown, Item 15-B—please turn to Item 15-B, and see if that refers to the articles mentioned [fol. 1521] above in 15-A, and when for stacking, dressing, creosoting, kiln-drying, or to be manufactured into lumber, etc.?

Exam. Hoy: Mr. Alston, is it necessary to go into what these tariffs mean any further?

Mr. Alston: I hope it is not.

Exam. Hoy: The Commission in the final analysis is going to read these tariffs, and say what they mean. Now Mr. Norden has already stated fully on the record what he thinks they mean. I don't think you are going to get anything further than that.

Mr. Alston: Mr. Examiner, I accept your position about that.

A. These tariffs are being applied now in accordance with my interpretation of them, as I have given them in this record. The committee of railroads had decided to extend this tariff for another period. That extension was with the concurrent right of cancellation at any time that it appeared to be proper. It carries that provision and the tariff so states.

That understanding was an understanding of the West Side lines only (Tes. p. 1691).

E. R. GARDNER, called as a witness, being duly sworn, testified as follows:

Direct examination:

E. R. Gardner, Freight Traffic Manager of the Mobile & Ohio Railroad Company, St. Louis, Missouri. I have been in the traffic department of the Mobile & Ohio Railroad since the first of the year. However, prior to that time, I was connected with the Southern Railway System lines for some 25 or 26 years in the traffic department of the Southern Railway companies. In my capacity of an official of the Southern [fol. 1522] Railway, I have occasion to familiarize myself at all times in a general way with the traffic and the (Tes. p. 1692) rates of the Mobile & Ohio Railroad. I am familiar with tariff making and filing, fairly so. The Mobile & Ohio Railroad extends from its northern terminus at East St. Louis, Illinois, to the Gulf of Mexico at Mobile, Alabama, 643 miles. It has a branch line from Artesia, Mississippi, into Montgomery, Alabama. It is paralleled a great part of the way by the Gulf, Mobile & Northern Railroad, and also the Illinois Central Railroad, and the Alabama, Tennessee, and Northern Railroad. The Mobile & Ohio Railroad established on August 1, 1932, manufacturing or transit rates on logs, billets, bolts, and handle material to the important manufacturing points on its line such as Columbus, Mississippi, Corinth, Mississippi, Humboldt, Tennessee, Jackson, Tennessee, Meridian, Mississippi (Tes. p. 1693), Mobile, Alabama, Whistler, Alabama, and to Cairo, Illinois. Now those rates were from points on the Mobile & Ohio, a distance of 100 miles from any of the manufacturing points which I have named. The rates beginning with $12.00 per car for the first 25 miles, $15.00 for distance 50 miles and over 25 miles $17.50 per car regardless of weights for distance of 75 miles and over 50. The rate of $20.00 per car for distances 100 miles and over 75 miles.

There were two particular reasons that prompted the Mobile & Ohio railroad to make effective those rates; first, to meet a condition created by our neighbors, thus to permit

the Mobile & Ohio to participate in the handling of the manufactured product from these manufacturing points which I have named; all of these points practically are common points served not only by the Mobile & Ohio Railroad, but also by our neighbors. There was also a second rea- [fol. 1523] son, and that was the matter of much concern to us, the loss of this particular traffic to the unregulated trucks. We thought that with experimental rates of this nature we might be able to recover some of the tonnage which had been lost to these unregulated transportation agencies. Of course there is no question as to the application of the rates of the Mobile & Ohio railroad, they being published in a transit tariff, so indicates on the (Tes. p. 1694) face of the tariff, and contains very complete transit rules. Now, in that connection I may also mention Mr. Alston, that we have also established similar rates, only $2.50 per car higher, from points on the Mobile & Ohio Railroad 100 miles from Montgomery, Alabama, into Montgomery. We were able to establish a higher level of rates into Montgomery, due to the rates maintained by our neighbors at Montgomery. I have reference primarily in the Valley territory to the Illinois Central Yazoo & Mississippi Valley, The Gulf, Mobile & Northern Railroad—those lines establishing these rates somewhat ahead of the Mobile & Ohio Railroad; and we found that we were losing considerable tonnage of the manufactured product because their rates were predicated on the line bringing the raw material into the manufacturing point receiving the outbound haul on the manufactured product. We also found, as I previously stated, the Gulf, Mobile & Northern parallels the Mobile & Ohio Railroad from Jackson, Tennessee, clean into the Gulf. We found that cross-country competition—that is competition between two lines of railroads for the forest product tonnage lying in the territory between the two railroads, and under the lower rates of the Gulf, Mobile & Northern the traffic was being diverted to that line, notwithstanding (Tes. p. 1695) that the timber was closer to the rails of the Mobile & Ohio Railroad than [fol. 1524] to our competitors; and the establishment of these rates has brought the tariff back to our line; traffic which we considered belongs to us legitimately. We have cross-country competition. For example, there is quite an important tract of land where these short logs—and incidentally, the preponderance of the log tonnage on the Mobile

& Ohio Railroad is short logs going into the stave and heading manufacturing plants. Now, just south of Middleton, Tennessee, on the Gulf, Mobile & Northern and south of Corinth, Mississippi, on the Mobile & Ohio, is a very important tract of land lying between the Mobile & Ohio road and the Gulf, Mobile & Northern Railroad. It is approximately three and a half miles from the Mobile & Ohio Railroad, and eight miles from the Gulf, Mobile & Northern, and with the lower rates via the Gulf, Mobile & Northern Railroad that traffic was being handled by the Gulf, Mobile & Northern, and diverted from the Mobile & Ohio Railroad. That is what I refer to as cross-country competition. These rates are applicable over the Mobile & Ohio only to the manufacturing points I have mentioned (Tes. p. 1696). I do not call them local rates at all. They are transit rates; rough material transit rates. The terms of the transit are defined within the tariff. As to what has been the effect on the truck competition, the use of these rates, Since August 1, 1932, the total log tonnage and forest products tonnage on the Mobile & Ohio has fallen off substantially, but we do know that we have gained some of the tonnage that was known to be handled by truck. We also know that we would not have handled as much tonnage as we did handle had we not made these rates effective. As to within what ranges of truck [fol. 1525] distances we have broken into the truck hauls, up to about 50 or 60 miles. We have been able to recover some of the tonnage handled by trucks for distances within 25 miles. Of course that has been very small as compared with the total. In the lower brackets of distances from 5, 10, 15, 20 and 25 miles (Tes. p. 1697) I don't think there is much opportunity to secure that traffic from the trucks, particularly because the haul to the railroad station usually is not much shorter than the hauls to the mills themselves, and they will continue to transport that traffic. That is my judgment. We find that especially true where the logs must be loaded on trucks in the forest to be brought out of the forests themselves. The disposition then is to continue on to destination. We have very little hopes of recovering—I say recovering—we didn't handle that class of traffic initially, and I don't think there is much hopes of handling much of it in the future even under these low rates. As to where the substantial recovery would begin, at what distance, something over 25 miles. I think on the Mobile & Ohio railroad that the recovery has been between 20 and

40 miles. We did not have truck competition prior to that time above 50 miles to any degree or quantity. I have been giving thought and attention to the development of the truck regulations, the laws being enacted in the several states (Tes. P. 1698). I have been keeping up with that pretty thoroughly. I do not look upon the present truck status regulation as a permanent one. We are in hope of legislation, both Federal and State, that will produce equal opportunity for the rail lines with the truck lines, and we think that we will be able to hold our own, and of course that will change this situation entirely. Our road is in the hands of a receiver. In my judgment the general existing depression in business, and the wide extent of unemployment has [fol. 1526] tended to intensify the truck competition. There is no doubt about that. As a matter of fact even our shopmen that we have been forced to lay off temporarily during this depression have gone into the trucking business, and actually soliciting traffic away from us. I (Tes. p. 1699) think that will be stopped of course when conditions are better. There is a great deal of what is commonly referred to as "fly by night" truck competition at the present time. Nevertheless it is tonnage that is lost, for which we suffer from the loss of revenues, as we have been unable to handle it.

Cross-examination:

As to whether we had rather carry the revenue under these circumstances for our railroad than to lose it under the new rates, considering the outbound haul on the manufactured product I think it was a wise experiment. As a matter of fact I don't think there has been sufficient time to determine whether the experiment is successful or unsuccessful. If I was called upon now to pass judgment upon it I would say it was, since August, it has been unsuccessful, but I am in hopes I will be able to change that in a short period after we have had more time to experiment with them. We want to get as much out of it as we can under these circumstances. I don't want this adjustment disturbed at all in the Mississippi Valley. We have an understanding with our (Tes. p. 1700) manufacturers over there, you understand. You see the manufacturers mostly that use these rates are stave and heading manu-

facturers; that is particularly true at the West Tennessee territory. We have an understanding with them, that if we find these rates burdensome that we will be able to cancel them on short notice. As to whether it cost any more [fol. 1527] to transport a car of long logs than it does a car of short logs of equal weight, I know of no conditions that would make it more expensive to transport the one than the other. Of course that is presuming they are loaded the same weight, and on the same class of equipment. I just don't want to be misunderstood on that. I live in St. Louis. We have quite a lot of trackage in Alabama. We have our Montgomery division. There has been a truck law passed lately in Alabama, and I am sorry to say it is not being enforced (Tes. p. 1701) the way I think it should be. I do not recall what the maximum weight there is prescribed in that law for the operation—of trucks. I would hesitate to tell you. Ten tons? I don't believe it is that much; I don't recall. I don't think it is 20,000 pounds. Twenty-two bales of cotton, that gives you about ten or twelve thousand pounds. I don't recall, no. I heard Mr. Green testify that Mobile & Ohio Tariff No. 860 is a proportional tariff, applying inbound only when the lumber products are reshipped outbound (Tes. p. 1702), by the Mobile & Ohio Railroad. That is a correct description of that tariff. It is a raw material tariff, containing transit rates.

As to the nature of the operation under the transit rates, the rules in the Mobile & Ohio tariffs are very clear, I don't think there is any possible chance for a misconstruction of their application. I have no objections however to telling you exactly how these raw material situations are handled on the Mobile & Ohio Railroad. As a matter of fact we started out with the alternative plan of permitting the shippers to either file claims for their refund down to the base or the lower rates or to furnish (Tes. p. 1703) us with bond or sufficient surety to guarantee that they [fol. 1528] would comply with the provisions of the tariff. We finally found that keeping the shippers out of their money representing the difference between the manufacturing or transit rates and the normal rates worked a hardship against them, so we finally authorized by our tariffs the filing of a bond acceptable to our treasurer and financial people, which would permit the protection of these

transit rates on the inbound tonnage. However, we also require that transit records be kept, so that the matter may be checked from time to time by our inspectors. The shipper's records are checked from time to time by the inspectors, and we do find discrepancies; and are forced to go back on the shippers to collect the local rate, when they had failed to comply with the provisions of our transit tariff. If the shipper files contract and bond we assess the lower rates on the logs inbound. If the bond is acceptable to our financial officer we do, yes, and the purpose of that is to save—I don't mind telling you candidly, that the shippers—Our practice is the same as testified to by Mr. Norden here a few minutes ago, substantially so, except that we don't have the claim payment plan (Tes. p. 1704). I agree with Mr. Norden that the value of such an arrangement is to secure to the Mobile & Ohio, if it brings in the logs, the outbound tonnage. Absolutely. We have depressed inbound rates predicated upon receiving the outbound tonnage of the manufactured articles. We have these timber or lumber requirements at manufacturing points where we compete with the Frisco. And under tariffs of that sort we are sure of the outbound business and revenue to ourselves as against the Frisco on the logs that we bring in. And vice versa the Frisco assures against us to itself the revenue on the logs that it brings in.

By Mr. Norman:

Q. Mr. Gardner, I was just a little curious to know who [fol. 1529] was the first railroad east of the Mississippi who had the judgment and the courage to install these rates. Everybody that has gotten on here has said they have done it to meet competition with some other railroad. Now, who was the bell-wether in this thing?

Mr. Alston: Your Honor, I object to that question. In the first place it has quite a great deal of recitation in it (Tes. p. 1705), which is not according to the record in the case. And if he wants to know who was the first railroad who put in the tariffs all right and good; I have no objection at all to an answer to that.

Mr. Norman: What do you object to?

Mr. Alston: The objection is that they have all gone into this business who had the courage and all that kind of thing.

Mr. Norman: You don't think it took courage, do you?

Exam. Hoy: Wait a minute Mr. Norman. We are not going to have any arguments on that. The question is, do you know what road first established these low rates.

Mr. Norman: East of the Mississippi River.

A. (continued:) Illinois Central. Of course that means the Yazoo & Mississippi Valley at the same time, and then along came the Gulf, Mobile & Northern, and then we followed along behind.

Q. Now, do you mean to say but for the action of the Illinois Central, the Yazoo & Mississippi Valley, and the Gulf Mobile & Northern, that you would not maintain these rates?

A. I didn't say that (Tes. p. 1706).

Q. Well, would you say that?

A. Well, I don't know what I would have done if they hadn't established them. That is a matter of conditions. I am going to make whatever rates in my judgment are proper. Absolutely I cannot tell what I would have done. [fol. 1530] Q. Let me ask you this; if they take theirs out, would you take yours out?

A. I don't know that.

Mr. Alston: Mr. Examiner, we have copy of the memorandum identified by Mr. Norden relating to the meeting held on March 30, 1932, and which was described by him, and I now offer that as an exhibit.

Exam. Hoy: It will be received as Exhibit 149 (Tes. p. 1707).

M. W. Thomas, called as a witness, being duly sworn, testified as follows:

Direct examination:

My name is M. W. Thomas; I live in Savannah, Georgia; and I am employed by the Central of Georgia Railway Company as Assistant General Freight Agent. I have been in the traffic department of that or other railroads twenty-five years altogether, twenty-two years with the Central of Georgia Railway.

Q. The subject matter under inquiry has to do with the logs and the rates on them, especially the rates which were put in by certain railroads in recent months, and I will

be obliged if you will state what you have to state as to the Central of Georgia's action.

A. I want to be as brief as possible, but in order to explain our publication of rates which have been referred to by tariff number in these proceedings, I want to make a few brief remarks about our industry as a whole, and I have made some exhibits which I will discuss as I go along, and I will distribute (Tes. p. 1708) them now.

Now logs, lumber and other forest products has been one of the principal sources of revenue of our company for many years. In 1927 the total tons of revenue on these products to the total of all commodities handled was as to [fol. 1531] tons 21.6 per cent and as to revenue 18.3 per cent. In 1931 the relation was as to tons 10.9 per cent and as to revenue 9.5 per cent. This has reference to timber, and not resin, turpentine, and other similar materials derived from the forest. The ratio of logs to all commodities in 1927 was as to tons 4.8 per cent, and as to revenue 1.9 per cent, in 1931 as to tons 1.5 per cent, and revenue 7/10 of 1 per cent.

As exhibit No. 150 I submit statement of the movement of logs, lumber and other forest products on the Central of Georgia Railway for the years 1927 to 1931 inclusive. I have omitted from this statement fuel wood, pulp wood, and veneer or built-up wood.

During the period from 1927 to date there has been a general decline in all traffic, largely due to the depression, but to a more serious extent to truck and other unregulated competition. This competition was particularly *a*ffective on log traffic. For example, in 1927, the Central of Georgia Railway handled 15,209 cars of logs an average distance of 45 miles for an average per car revenue of $21.27. In 1931 we handled 3,168 cars an average distance of 96 miles for an average per (Tes. p. 1709) car revenue of $27.61. The increased average haul indicates very clearly that we have lost short-haul traffic to a large extent.

Lumber is not as susceptible to truck haulage as logs. In 1927 we handled 53,420 cars of lumber an average distance of 204 miles for an average per car revenue of $47.40. In 1931 we handled 20,161 cars of lumber an average distance of 212 miles for an average per car revenue of $50.76. From 1927 to 1931 lumber decreased 62 per cent, and logs

78 per cent which further indicates that log traffic has gone to other means of transportation.

[fol. 1532] In order to recover some of this lost traffic we have been conducting investigations to ascertain at what points we can meet truck competition without establishing rates that would prove unremunerative, and, therefore burdensome to other traffic. We found at Montgomery, Alabama, a half to three quarters million hardwood logs were moving in monthly of which 80 per cent were by truck. All of these logs were consigned to mills located on lines of carriers other than the Central of Georgia Railway, and to a large extent they were brought out of our local territory in Southeast Alabama, and we were neither hauling the logs into Montgomery nor the lumber made therefrom out of Montgomery. We ascertained what the trucks were charging by a thorough investigation through our agents and traffic representatives, and arranged the establishment of rates which (Tes. p. 1710) would equal the truck charges, and by publishing such rates as proportional or transit rates assure ourselves of outbound hauls on the lumber. We do not hope by this means to recapitulate all of the logs which have been moving by truck, but we do hope to recover a large share of them.

We published effective intrastate August 15, 1932, and interstate September 13, 1932, a schedule of transit rates of $14.50 per car for 25 miles and under; $17.50 for 50 miles and over 25; $20.00 for 75 miles and over 50; and $22.50 for 100 miles and over 75. These rates are published in our I. C. C. No. 2848 copy which is submitted as Exhibit No. 151.

On the title page of this exhibit it will be noted at the top that these rates are issued to meet truck competition, and at the bottom, that they are published to expire with September 12, 1933, unless sooner cancelled, changed, or [fol. 1533] extended. The rates are by no means maximum reasonable rates, but were, as indicated, published to meet truck competition, and as an experiment, therefore the expiration date.

On page 2 will be found the application of the tariff, which provides that the rates apply only on shipments moving from points of origin to Montgomery when the movement is solely via the Central of Georgia Railway, and will only apply when outbound shipments of lumber

from Montgomery are forwarded via the Central of Georgia Railway to destinations on its line, and via Central of Georgia Railway and connections to destinations (Tes. p. 1711) beyond its line. The lowest rate on lumber to any destination from Montgomery is 2½ cents per 100 pounds, which is the statutory mileage scale in Alabama for seven miles and under. The average rate per 100 pounds which we may expect to receive on the outbound lumber is much greater than this figure as I will later show. We found that logs were being trucked from certain stations, and that the trucks were hauling them for about $3.50 and $4.20 per truck load of 14,000 pounds. We estimated 5 truck loads to a car, and published rates on a per car basis that would about equal the truck charge. For two weeks ending July 23rd and July 10th, 1932, we checked 255 trucks of hardwood logs moving from stations on the Central of Georgia Railway in Southeast Alabama to Montgomery. This is equivalent to 51 carloads of 70,000 pounds each.

As exhibit No. 152 I submit statement of revenue per car of 70,000 pounds on logs at transit rates from Central of Georgia Railway stations in Alabama to Montgomery compared with revenue assessed by the trucks for the same tonnage from the vicinity of these stations to Montgomery. [fol. 1534] This statement also shows miles to railroad stations and rail mile from these stations to Montgomery. The distances over the highway from railroad stations named to Montgomery are about the same as the rail distances except from Ezell, Hurtsboro, Troy, Seale, and Brantley, Alabama, from these stations the highways are shorter than via rail (Tes. p. 1712).

Exhibit No. 153 is a statement of transit and normal rates on logs, carload, from Central of Georgia Railway stations to Montgomery, showing the per car revenue at minimum weight of 40,000 pounds, and for average loading on the Central of Georgia Railway for a 5-year period, 1927 to 1931, inclusive. The exhibit also shows percentage that per car revenues at transit rates bears to per car revenues at local rates. As I have before stated, we have figured on a 70,000 pound loading or the equivalent of five truck loads, but for the purpose of this showing I have used both the minimum weight and the average loading of 45,999 cars for a period of five years. In this connection I want to

drawn attention to my first exhibit which shows the average revenue per car for this period was $23.98, which is only slightly in excess of the maximum per car rates which was established to meet truck competition, and as transit rates to secure outbound lumber traffic.

My next exhibit No. 154 is a statement showing the per car revenue on logs at transit rates from Central of Georgia Railway stations in Alabama to Montgomery compared with per car revenue in Georgia for single-line hauls, showing percentage per car revenue at transit rates bears to per car revenue at local rates. Georgia rates for single-line hauls are less than Alabama rates for single-line hauls. [fol. 1535] In this exhibit I have made comparison of the minimum weight charges, also charges based on average loading (Tes. p. 1713).

The rates which will be assessed on this log traffic to Montgomery will be the local rates prescribed by the Alabama Public Service Commission, and which are the same as these in Florida, however, if the lumber is shipped from Montgomery, Alabama, within 12 calendar months after date of paid freight bills covering inbound movement of logs we will refund the transit user charges assessed for the transportation of the logs into Montgomery in excess of charges based on the proportional or transit rates published in our I. C. C. No. 2848, Exhibit 151. That is, for each pound of lumber shipped out of Montgomery via the Central of Georgia Railway proportional rates authorized in our transit tariff will be applied on not more than three pounds of logs shipped into Montgomery. To illustrate this result I submit as Exhibit 155 a statement showing revenue on transit per car rates into Montgomery on logs plus 10 cents per 100 pounds on lumber outbound at one-third of the inbound log tonnage. The figures on this exhibit may be briefly explained as follows:

For the period 1927 to 1931, inclusive, the Central of Georgia handled 204,956 cars of lumber——

Mr. Norman: Are you going into the question of the outbound lumber rates?

Exam. Hoy: I understand the exhibit is only to illustrate how he makes his refund on the inbound logs.

Mr. Norman: No. it is not; it is to show revenue here (Tes. p. 1714).

Mr. Alston: Your Honor, we withdraw that exhibit.

[fol. 1536] A. (continued) In establishing transit rates on logs into Montgomery we have, as I have stated, been largely influenced by outbound tonnage we would get under the so-called transit arrangement. During the three months period prior to the establishing of these truck competitive or transit rates we handled five cars of logs into Montgomery; since they were established we handled 53 cars, averaging 68,736 pounds per car.

Exam. Hoy: The exhibits 150 to 154 are received in evidence.

A. As to what distances were those cars handled, we handled 25 cars 50 miles; 7 cars 59 miles; 7 cars 70 miles; the other 3 cars approximately 50 miles. The point from which they came is just north of Union Springs, which is 40 miles away; I don't know the exact distance to the particular point. The total number of cars is 53. I think I missed 11 cars here; there are 11 cars 96 miles. I (Tes. p. 1715) missed that one. Our tariff is applicable 100 miles.

Q. You seem to have little or no effect on the haulage in 25 or 30 miles.

A. No, we didn't get a car in the 25-mile block. Our rates are published in 4 blocks; 25, 50, 75 and 100 miles. As to what was the nearest cars we hauled, or how many we hauled in the next block over 25 miles, why, the nearest point was 50 miles. The Gooch Lumber Company in Montgomery is located on the Western of Alabama. We were getting very little outbound lumber on that. Certain lumber of course would naturally come to us, but we are getting very little. As to this truck situation (Tes. p. 1716) we looked upon it as experiment, and we hope we can stop them. We look upon these rates as experiments. As to additional regulations in Alabama of trucks, we are hoping for that; we don't know what they may do; but we hope [fol. 1537] for regulation in all of the states we serve. The present truck regulations in Alabama are not enforced. That goes in toto, of course they may be to a certain extent enforced. As to from what points are these rates applicable on our system, to Montgomery, Alabama, only. To no other point. As to how many miles there are in our system, 1,920 miles approximately. We only operated in Georgia and Alabama. We have about ten miles in Tennessee, and about two miles in Florida. As to the general

basis of log rates that is now applicable over the balance of our system, exclusive (Tes. p. 1717) of these transit rates that you have put in to Montgomery, they are practically all rates prescribed by the Georgia Commission, and Alabama Commission, and the Interstate Commerce Commission. In other words the general movement of log traffic over the Central of Georgia, other than to Montgomery is being handled under those rates; with one exception. We have one points where we have a small movement on rates that were published from competitive points with another railroad, and those rates—well they are substantially the same as the Georgia rates. That situation has been in effect for some time. Logs are moving under these other rates over the system as a whole. Prior to the reduction we moved 5 cars to Montgomery. That was for 3 months period prior, and 53 cars since—have moved since the reduction (Tes. p. 1718) since the rates went into effect, up to November 11th.

Cross-examination.

Q. I say, logs are not moved very much under these other rates on your system, are they, from this exhibit 150 of yours it appears to be about 20 per cent of what they were four years ago or five years ago.

A. Unfortunately there is very little of any kind of traffic [fol. 1538] moving sir.

Q. I know, but logs have fallen off a larger percentage than lumber, or most any other thing, haven't they?

A. I would not say most any other thing. They have fallen off a greater percentage than lumber; I made that statement. As to whether I know of any other traffic handled by our railroad that has a normal, a regular movement, that has fallen off as much in the last five years as the log traffic, yes, cotton (Tes. p. 1719). I don't know where it has gone; it has gone away from us. As to whether there is just as much cotton being raised and moved now as there was before, I don't know—I haven't kept up with the number of bales by years. We have reduced our rates on cotton, and tried to get some of that back. We are making a lot of experiments in truck rates. I mean truck competitive rates.—We didn't reduce our rates to meet competition with some rail carrier, ours is just trucks.

It is correct to judge from our tariff that we always collect the local normal rate when we move the logs. We don't operate under the bond plan at all. As to who serves Montgomery besides the Central of Georgia, the Western of Alabama, Seaboard Air Line, Atlantic Coast (Tes. p. 1720) Line Railroad, Mobile & Ohio, and the Louisville & Nashville Railroad. As to whether the value of this arrangement to us at Montgomery is due to the fact that thereby we assure to ourselves the revenue on the outbound tonnage, that was part of the reason that we made the rates inbound; that is, to the extent that we get the revenue on the outbound tonnage, and other lines do not get it. We want as many logs inbound to Montgomery under these new rates as we can get.

[fol. 1539] Redirect examination:

The coal traffic has fallen equally as much as the forest products (Tes. p. 1721).

Recross-examination:

We do not carry very much coal to Atlanta. We are unfortunately the long-line from Alabama and Kentucky and Tennessee fields to Atlanta, and we handle very little of it. Natural gas has within the last couple of years come in to Atlanta. That has put quite a dent in the coal business.

C. D. Thomas, called as a witness, being duly sworn, testified as follows:

Direct examination:

My name is C. D. Thomas; I live in Atlanta, Georgia; I am employed by the Southern Railway System as Assistant General Freight Agent. I have been with the company 23 years. I have been all that time in the traffic department. Our road hauls long-length logs, that is logs over six feet (Tes. p. 1722).

We have established truck competitive log rates, and notably at Chattanooga, Tennessee, we published to that point, effective August 15, 1932, on Tennessee intrastate traffic, and September 15, 1932, on interstate traffic in Southern Railway L. C. C. No. A-10472, a scale to apply

from stations on the Southern Railway, the Alabama-Great Southern Railroad, the Cincinnati, New Orleans & Texas Pacific Railway Company, for distances 100 miles and under, and for single-line application over the roads mentioned. The scale we established is as follows: For distances 25 miles and less $12.50 per car; 50 miles and over 25, $15.00 per car; 75 miles, and over 50 $17.50 per car; 100 miles, and over 75, $20.00 per car. The rates apply [fol. 1540] per car irrespective of weight.

In the initial publication the rates were surrounded with a transit arrangement. Subsequently in Supplement 4 to the Southern Railway I. C. C. A-10425, the same scale was published without the transit requirement. This was effective on Tennessee intrastate traffic August 27, 1932, and on interstate traffic September 26, 1932.

The truck competitive scale was published upon request of two concerns at Chattanooga, the Williams & Vorhis Lumber (Tes. p. 1723) Company, and the Chattanooga Handle Company. Their argument was that if the proper scale were established it would eliminate the movement of logs for short distances by truck. Our division traffic officer confirmed the statement made by the shippers that there was a substantial movement of logs by truck to Chattanooga, although it was not practicable to develop what the volume of this movement amounted to. Our division officer did report to us that logs were being handled by truck for varying distances, certainly as far as 50 or 60 miles. No accurate figures could be secured as to the rates which were being charged, because in practically all instances the logs appeared to be handled by the shippers in their own trucks, who made delivered prices at the plant. Every assurance was given us that if the scale of rates was made effective it would eliminate the trucking of logs. The scale was established wholly in the nature of an experiment, and specifically published to expire in September, 1933.

It is problematical how much of the log traffic this reduced scale has recaptured or will recapture. We are not in position to compare the movement by truck with that by rail. I have obtained a record of the number of cars of logs moving from stations within 100 miles on our line by [fol. 1541] rail into Chattanooga from June 1, 1932, through October 31, 1932, which is as follows: In June 4 cars; July 7 cars; August 5 cars; September 4 cars; and October 6

cars (Tes. p. 1724). Based on these figures the establishment of the truck competitive scale does not appear to have stimulated a rail movement. The total number of cars for the two months of September and October since the scale has been in effect is only ten cars, while the total movement for the three months of June, July and August was sixteen cars.

Business conditions of these mills at Chattanooga are very much the same as with many other industries, and they are barely operating. Normally the two concerns, the Williams & Vorhis Lumber Company and the Chattanooga Handle Company ship two or three carloads of finished handles or flooring daily, which would indicate that normally the movement of logs is substantially more than it is or has been for several months. Practically the same situation exists at several other points where truck competitive rates have recently been established by our line on logs for distances 100 miles and under.

At Laurel, Mississippi, we established a truck competitive scale which is substantially though not identically the same as the Chattanooga scale. This became effective July 5, 1932, on Mississippi intrastate traffic, and July 26, 1932, on interstate traffic; being published in New Orleans & Northeastern I. C. C. 3101.

Checking up on this movement we found for four months, March, April, May and June, a total of 50 cars from stations within 100 miles of Laurel; and for four months of July, August (Tes. p. 1725), September and October, a total of 50 cars. This also fails to demonstrate any increased [fol. 1542] movements since the truck-competitive scale became effective. Like the Chattanooga scale that is published as an experiment, to expire approximately twelve months after the date of publication, or July 26, 1933. The same truck competitive scale was established to Memphis, Tennessee, from Southern Railway stations within 100 miles of Memphis. This scale became effective September 15, 1932, for both interstate and intrastate application. I have the movement of logs by rail to Memphis from stations on our line within 100 miles of the latter point for the months of July, August, September, and October, which are: July 5 cars, August 1 car, September 1 car, October 18 cars. The Memphis movement shows an increase in October over the three previous months.

Again, we established a truck-competitive scale to Corinth, Mississippi, effective September 15, 1932, for both interstate and intrastate application, and to Mobile, Selma, and York, Alabama, effective October 5, 1932, for Alabama intrastate application, and November 15, 1932, for interstate application, but our investigation shows no movement into Corinth, Mobile, Selma, or York for the period June 1, 1932, through October 31, 1932. The establishment of the scale to Mobile, Selma, and York, has been rather recent, but notwithstanding the fact that it has been effective since October 5th on intrastate (Tes. p. 1726) traffic there has been no movement from October 5th to October 31st.

In each of the instances where we have established truck competitive rates on logs, investigation through our division traffic officers has indicated actual truck competition, and representations have been made to us that the establishment of the truck-competitive scales would regain all or a substantial portion of the traffic. It is a very difficult [fol. 1543] matter to develop accurate information as to the extent of truck movements or the rates charged by trucks. The best we can do in any case is to develop what information we can, and rely upon our judgment the rest of the way. For this reason we have invariably, in establishing truck-competitive rates, published them for an experimental period, with a limited effectiveness, so that the results can be watched during the time they are in effect, and so that we can shape our future course by such experiments. Our truck competitive scale into Laurel, Mississippi is a transit scale (Tes. p. 1727). As to our rates into Memphis, that is true as to the Memphis scale. It is true as to Corinth. The scale presently in effect to Chattanooga, Mobile, Selma, and York are not subject to transit restrictions. To the other points on our system, we are charging what is commonly referred to as our Southern Railway System normal interstate log scale, and of course some of the States rates, which were prescribed by State commissions which are if anything lower than the normal interstate scale. We are using the rates which I have described—that is the flat car rate in only the places which I have mentioned, and in the circumstances which I have mentioned. I am not convinced that we have regained any traffic from the trucks under these truck-competitive scales.

I think the (Tes. p. 1728) duration of the experiment is too short to yet form anything like an accurate idea as to whether the truck competitive scales are or will be effective in recapturing the log traffic. I spoke of the Southern Railway Company's interstate scale which applies generally on logs over the system, with the exceptions that I have named here. That is what is commonly known as [fol. 1544] the Pierpont scale. It was prescribed and fixed by the Interstate Commerce Commission in the Pierpont case. At Charleston in reference to the handling of logs, poles, etc., for creosoting, we have no situation with respect to logs. There is one with respect to timbers or lumber after the logs have gone through a manufacturing process.

Exam. Hoy: Just what are you getting into now Mr. Alston?

Mr. Alston: There was some evidence here, given earlier by some of the witnesses of our opponents with reference to the condition at Charleston which dealt with lower rates.

Exam. Hoy: I don't remember any such testimony (Tes. p. 1729).

Mr. Green: I put that in.

Mr. Hillyer: Mr. Examiner, that evidence showed that there were reduced rates on poles, piling and lumber into Charleston in the tariff to which Mr. Thomas just referred. That was for the purpose of making the comparison between the new log rates and the poles, piling and lumber rates established to Charleston.

A. Mr. Alston, I am not very familiar with that particular arrangement which I think you have in mind. I know very well that it does not apply in any way on logs.

Q. Our information is that the rate referred to was a creosoting rate on certain sorts of timbers or lumber. Are you familiar with that?

A. Only in a general way; that we have this creosoting arrangement, but I don't see the relevancy of that arrangement and what we are talking about. I think we have some low charge into Charleston, more in the nature of backhaul charge. I would prefer not to try to—— (Tes. p. 1730). I had rather wait until I see this tariff; I don't know that I am sure exactly what you are talking about.

[fol. 1545]. Cross-examination:

A. At Chattanooga, Mobile and Selma these rates were not now subject to transit conditions. There is a fourth point in the same class, Chattanooga, Selma, Mobile, and York, Alabama (Tes. p. 1731). In some cases at some of these points which I have mentioned we do not collect the normal log rate in, and subsequently we make a refund to the basis of the lower rate. I don't understand that the tariffs provide for that. We protect the lower rate in the initial instance, in the first instance in every case. The value of this arrangement is in the fact that the Southern Railway assures to itself the revenue on the outbound movement of the product made from the logs. We would get business that being competitive might go to another carrier to an extent. These rates that are (Tes. p. 1732) published as local rates, with no tying up of the tonnage were published primarily to meet truck competition. We surrounded the Chattanooga scale with transit, and were immediately told by the consignees who had requested it that it would not do them any good if it were surrounded by transit, in that they would not use it, unless we took the transit off. As to whether those rates that are published as local rates without any tying up with outbound tonnage are published solely for the purpose and in the hope that we will get log traffic at those rates; while we have removed the transit feature of the scale at Chattanooga, and have not published it at some of these other points we still feel that the shippers are going to treat us fair enough to give us the outbound product even without the transit restriction; and if we hadn't thought so we would never have taken the transit feature off of them. They will give it to us when they reasonably can. They [fol. 1546] would not necessarily do that though if the logs came in by truck (Tes. p. 1733). Under transit they would be compelled to.

Q. I am not talking about transit now—I am talking about where you haven't got any transit—the shipper would not necessarily give it to you whether it cam- in over the railroad, or over the truck, so long as you haven't any raw material rates tying up the outbound tonnage?

A. Well, don't you think that the moral obligation of the shipper is worth something? The good will of the shipper is worth a good deal to us, it ought to be. We publish

these rates as flat rates to these four points, and we want to get all of the log traffic on them we can. As to the result of our study on the inbound movement of logs over the Southern Railway to Chattanooga, we didn't find very much (Tes. p. 1734) movement there. We did not make a corresponding study over the Nashville, Chattanooga & St. Louis during the same period. The testimony which I gave as to the Southern would not necessarily conflict with that of Mr. True, who testified as to the greatly increased movement over the Nashville, Chattanooga & St. Louis.

By Mr. Adair:

Q. Mr. Thomas, as a matter of fact, in dealing with shippers you have generally found you could rely upon their good faith in giving you the outbound if you gave them what they considered to be reasonable inbound, haven't you?

A. Well, found them all pretty human sort of fellows as a general rule; yes.

[fol. 1547] Redirect examination:

As to why we did not apply over the other parts of our system the rate which I refer to at (Tes. p. 1735) these four or five points, we are very cautious in the matter of reducing our normal log rates, and proceed very slowly in establishing truck-competitive rates, unless we are rather thoroughly convinced of the necessity, and the possibility of regaining lost traffic. In other words, we require rather complete showing of necessity before we reduce these log rates.

Q. State whether or not the rates which you call the normal log rates, and which you have heretofore referred to over your road are in your opinion just and reasonable?

Mr. Adair: We object to that, Your Honor.

Exam. Hoy: Objection sustained.

R. I. Miles, called as a witness, being duly sworn, testified as follows (Tes. p. 1736):

Direct examination:

R. I. Miles; my address Chicago, Illinois; I am Commerce Agent of the Illinois Central System. I have been

with the Illinois Central system for 13 years; all of which time has been spent in the freight traffic department, and the past eight years in the handling of commerce matters. The Illinois Central Railroad has put into effect changes in rates on logs in the recent months, and on the statement submitted as my exhibit No. 155 I have shown the local and reshipping rates; also truck competitive rates that were established on or about April 12th on logs at points on the Illinois Central Railroad, and the Yazoo & Mississippi Valley Railroad in Tennessee, Mississippi and Louisiana east of the Mississippi River. In Southern territory [fol. 1548] south of the Ohio River the Illinois Central runs from Cairo, Illinois, south through Memphis, Jackson, Tennessee, Jackson, Mississippi, to New Orleans. They have a line running from Jackson, Mississippi, to Gulfport, Mississippi, and the Yazoo & Mississippi Valley pretty well (Tes. p. 1737) honeycombs the state of Mississippi. The Yazoo & Mississippi Valley is a subsidiary of the Illinois Central. West of the Mississippi they have a line running west of the Mississippi River from Vicksburg, Mississippi to Shreveport, Louisiana. That is the only mileage west of the Mississippi River in the South.

Exhibit 155 item A shows of the Illinois Central Railroad our gross log rates, interstate Column B, is the intrastate Mississippi rates. I show the Mississippi intrastate rates because that is the only state in which the intrastate is different to the interstate scales, under Yazoo & Mississippi Valley column A, are the interstate rates, column B the intrastate Mississippi rates. The next column are shown our net reshipping rates applicable (Tes. p. 1738) over the entire Southern lines, and in the last column the truck-competitive reshipping rates stated in amounts of per car applicable from points on the Illinois Central and Yazoo & Mississippi Valley, and Gulf & Ship Island, to manufacturing points, and are restricted to reshipping rates. The local rates which we have described which appear on this exhibit are also in existence; they were continued. They continue throughout our system, at least as described by me the rates which do not move under the flat car rate. The flat car rate, the rate appearing on the last column of 155—the truck competitive rates as shown in the last column as designated were put in to meet truck competition. They were also put in to meet competition

of rates that had been put in by the lines operating in the [fol. 1549] Southwest. In other words, the lines operating west of the Mississippi River into Memphis, Tennessee, had established these rates into Memphis before they were put into effect on our lines east of the Mississippi River; and the mills located at Memphis were drawing their logs from roads west of the Mississippi River in Arkansas, and the rates were put in both to meet the truck competition on our (Tes. p. 1739) own line, and to meet what had been done by the roads in the Southwest. As to the distance logs are being moved by truck-competitive rates, from the investigation that I have made they are moving for distances of 11 to 98 miles. The large preponderance of the movement being between 35 and 50 miles. As to what effect these rates have wrought on truck competition, it is mighty hard to tell just what effect that it has made. Since the rates were established the movement has been lighter than it was prior to the time they were established. The movement by rail has been lighter since they were put in than it was prior to that time, that is measured in cars. The rates which have been put in apply per car regardless of the load. I have a statement showing the movement of logs on the (Tes. p. 1740) Illinois Central for the years 1928, 1929, 1930, 1931, and for six months of 1932. The statement offered as my exhibit 156 is the statement showing movement of logs on the Illinois Central system for the years 1928, 1929, 1930, 1931 and six months of 1932. I would like to call attention while the exhibit shows it, I have segregated the months of January, February, and March—those were the three months prior to the time the truck-competitive rates were established, and shows we handled 64,806 tons; and for the three months subsequent to the establishment of the truck-competitive rates we handled 46,744 tons. As to what normally are the months of [fol. 1550] highest movement of logs, I could not say exactly, because weather conditions enter into the movement. April, May, and June are likely to be as good months as any. These new rates do not apply to all manufacturing points; all points on the lines where the logs are manufactured; only at points where we found that there was actual truck competition (Tes. p. 1741). And between all non-manufacturing points; and to manufacturing points not

named in the schedule the old rates which I have described continue to apply.

Q. Have you been able to notice any difference in the relative receipt of logs for the period which you have described for the year 1932 at the manufacturing points where these rates apply, and the manufacturing points where they do not apply?

A. Well, we really have made no comparison—such comparison; I don't know how it would be.

Exam. Hoy: The exhibits will be received and marked Nos. 155 and 156.

Cross-examination:

On our exhibit 155, as to whether the Illinois Central moves any considerable log tonnage under those column 1 rates, I would say that it would be small. The Illinois Central is one of the largest lumber-originating (Tes. p. 1742) roads of the South.

Q. You said that you established the rates into Memphis in part because of the competition with West Side roads. Now that was in competition to haul the same logs?

[fol. 1551] A. No, sir. That was market competition.

Q. Then, if you were influenced by that, why is it that you say that you didn't establish these per car rates in places except where the truck competition required it? That market competition would apply at a point where there was no truck competition, wouldn't it?

A. Well, we have never had any request to publish them at other points, and where there was no truck competition we haven't put them in. The moving cause has been the truck competition. This exhibit 156 shows that our movement of logs on our system fell off in the year 1931 from 1,579,000 tons to 361,000 tons (Tes. p. 1743). And for the six months in 1932 even that fell off. We get down now to the point where our log traffic is pathetic. That is not due only because of truck competition or perhaps as much because of truck competition as because of the general depressed situation in the lumber industry. During the period that we have had these per car any quantity rates in effect there has been no real opportunity to determine just what the result will be. I have no data showing the difference in the loadings, the weight loadings, since we put in these new

reduced rates;; that is compared with what the loadings were prior (Tes. p. 1744). I haven't that. As to whether or not they are heavier, I could not say. I know about the approximate loadings that we are getting now, but I don't know what it was prior to the time the rates were put in. That tendency of the shippers with a flat per car rate is to load them heavier than on a minimum with excess in proportion. We are taking as much traffic as we can get on these new rates. We hope to get more. They were [fol. 1552] put in with the hope that we would take it away from the trucks, but it has been disappointing so far. It was with the idea of getting the traffic, and holding it to our own lines (Tes. p. 1745). I have not made any further investigation as to the extent of the movement since June the 30th. I don't know whether it is heavier or lighter since that time.

Redirect examination:

They are all transit rates.

By Mr. Gwathmey:

Q. Mr. Miles, in answer to Mr. Adair that you would like to get this business under these rates, did you or not have in mind the fact that they are transit rates, and that you expect to secure the outbound movement of the lumber?

A. That was predicated on the assumption that we would get the outbound movement.

By Mr. Norman:

Q. Well Mr. Miles, these rates that have been (Tes. p. 1746) referred to loosely here as transit rates—they are not transit rates in the true sense are they? They are rates that——

A. Well, it is different to other characteristics of transit—that is the general character of transit, yes. They are transit in the sense that they tie up the outbound movement, and in that sense only. They are operated the same as explained by the Frisco; that is, either by claim, or they furnish bond. I should say the predominating is the bond, and charging the low rate inbound; that is correct. The transit features of our rates are all described in the tariffs.

[fol. 1553] J. W. PERRIN, called as a witness, being duly sworn, testified as follows:

Direct examination:

My name is J. W. Perrin; I live at Wilmington, North Carolina, and I am Freight Traffic Manager of the Atlantic Coast Line Railroad Company. What I am going to present, so that the force of the exhibits that I may make in explanation of them may be more forcibly presented at the time they are presented. We have made no change in our log rates since the closing of this case before the Commission. We have the same situation in Florida and elsewhere as existed when the case was formerly before the Commission. We haven't found any substantial change in conditions in Florida, even as to truck competition. It is true that the volume of our log traffic in Florida has been reduced, running over a period since 1929. It is not the case, however, that the volume of the log traffic has fallen off in greater degree than the volume of traffic in the products of logs. Now I want to present first in order to bring up to date the picture of the log situation in Florida an exhibit showing by months, beginning as far back as February, 1931, and continuing (Tes. p. 1748) then until August, 1932, the number of cars of long length logs handled by the Atlantic Coast Line between points on its lines in Florida, naming the points of origin, the destinations, and the distances in each case. I assume that that will be Exhibit No. 157.

Mr. Adair: Your Honor, we object to the introduction [fol. 1554] of this exhibit; nothing within the scope of the reopened order.

Mr. Alston: Mr. Examiner, the scope of the order has the three prongs, which you have heretofore so clearly stated: one of them is for the sole purpose of receiving evidence respecting the change in the rates on logs since the close of the last hearing—that has been gone into at great length. The second is the circumstances connected with and the conditions which occasioned such changes—that has been gone into in great length. What we are now offering is a part of that. The third prong is whether such circumstances or conditions or any of them are present with respect to Florida intrastate log rates of the Atlantic Coast Line. We are now on that (Tes. p. 1749).

Exam. Hoy: Well, it seems to the examiner that this would have some bearing on the third of those, that is, whether such circumstances and conditions, or any of them, are present with respect to the change in intrastate log rates of the defendant, in that there is some tendency to show that the rail movement is still in existence, and in that way is connected up, possibly remotely, with the truck competition in Florida that has been testified to as one of the impelling reasons for making these other reductions; and while I cannot tell now just how much weight that might be attached to it in that connection, I think it is within the issues of the reopened proceeding.

Mr. Alston: Your Honor, in the light of the scope of the testimony, or the substance of the testimony given, it may very well be valuable because of the showing of the mileages between the points of origin and estimation.

Exam. Hoy: Yes, that is another point on which it might be valuable. I will receive it as Exhibit No. 157.

[fol. 1555] Mr. Adair: Your Honor will note our exception.

Exam. Hoy: Yes sir.

A. (continued) It will be recalled that at previous hearings in this case I submitted an exhibit, which I think was No. 61 (Tes. p. 1750), showing the general distribution of the log movement throughout the State of Florida on the Atlantic Coast Line. That, however, only covered the period up to the Spring of 1931. This exhibit No. 157 takes up the showing of the distribution of logs in our service in Florida for the period since the Spring of 1931 up to and including the last month for which statistics are available, namely, August, 1932. I have shown the points of origin, and the points of destination as a means of indicating the general character of the distribution of the logs on our line in Florida; and this is also accomplished by showing the distances between each point from and to which logs were handled. It will be noted that there were logs moved in some of these months for extremely short distances, the lowest distance being 5 miles, and for what might be termed extreme long distances for log traffic, extending up as high as 235 miles. It is readily and easily obtained from this statement the extent to which the movement of logs between the Atlantic Coast Line points in Florida is for short distances and for long distances, and

that is one of the purposes of this exhibit, having in mind that the matter of the extent to which trucks may have taken the log traffic during the period since this case was closed before in larger proportion than during the period prior to the closing of the case, I have thought it entirely proper to present to the Commission the absolute details of the movement. The exhibit of (Tes. p. 1751) course speaks for itself, and is perhaps not necessary for me to call [fol. 1556] attention to any particular features of this exhibit, other than to repeat that it shows that logs are moving in greater or less quantities between points of practically all distances within the State of Florida—moving by rail. Now I have nothing further to say on that, but want to present another exhibit as a summary of the information contained in Exhibit 157.

Exam. Hoy: It will be received as Exhibit 158.

A. (continued) In this Exhibit No. 158 I have brought forward the monthly movement of cars of logs for the period for all months in the years 1930, and 1931, and for the period in 1932 through the month of August, the latter being the last months for which statistics were available. It shows that the average number of cars for the year 1930 was 282 per month. In 1931, 198, and in 1932, was 188. Now, my principal purpose in preparing this statement is to show for comparable periods before and since the closing of the case before the Commission what change has taken place in the log movement in Florida. The record of the case closed in July, 1931 (Tes. p. 1752).

The 21st day of July, 1931, therefore from August, 1931, to August, 1932, a period of 13 months, I compare the number of cars of logs handled in Florida for 13 months prior to August, 1931. This I did because of the citation that we are to show any changes in conditions existing in the State of Florida, and I think this is perhaps the best way to indicate what those changes have been with respect to the log traffic. It will be noted that for the 13-month period before the closing of the case the movement of logs consisted of 3,245 cars, while for the 13-month period following the closing of the case the movement consisted of 2,453 cars—a reduction of 792 cars—equivalent to 24.4 per cent. I may state that considering the general depression that [fol. 1557] exists throughout the whole country, and in

Florida as well, the small percentage of the falling off in the Florida log traffic was a matter of considerable surprise. In order to test whether the reduction in the log traffic of 24.4 per cent was due to trucks or to other considerations, I have compiled another exhibit, showing the state of the lumber industry throughout the country, which I would like to offer as Exhibit No. 159.

Mr. Adair: Your Honor understood that we are still objecting to all this line of testimony on this page?

Exam. Hoy: Well, I hadn't so understood.

Mr. Adair: I took it the last exhibit was merely a (Tes. p. 1753) continuation of the preceding exhibit.

Exam. Hoy: It was a summary of the preceding exhibit, yes. This is a different exhibit.

Mr. Adair: We make the same objection to this, your Honor, on the same grounds, it is not within the scope of the reopening order.

Exam. Hoy: The objection will be overruled. The exhibit will be admitted as Exhibit 159.

A. (Continued:) It is fair to assume that a reduction in the log traffic as a whole would result in a reduction in the production of lumber as a whole. It is not sufficient to show that you have had a certain falling off in logs, and to conclude from that fact that that is due to some influence, without an investigation of what has taken place in the general lumber industry. My exhibit 159 was prepared in a manner perhaps broad enough to show what has been the source of the lumber industry in the United States during the last two years, beginning with the fourth quarter in 1929. For that purpose I have shown during the two periods, the first being six quarter-years (Tes. p. 1754), beginning with the fourth quarter of 1929, and ending with the first quarter of 1931; and the second period [fol. 1558] beginning with the second quarter of 1931, and ending with the third quarter of 1932; both periods covering the same number of quarters and months. I have shown the number of carloads of lumber originated first by the Atlantic Coast Line Railroad Company; second, by all Class 1 Railroads in the Southern region; and third, by all Class 1 Railroads in the United States; and in the last column the total number of carloads of lumber transported by the Atlantic Coast Line Railroad—the latter

column includes the cars in the first column, as originated by the Atlantic Coast Line, and also cars received by the Atlantic Coast Line from its connections. The statement shows the quarterly average for the two periods, and the amount of decrease for the second period. It will be noted that the lumber originated by the Atlantic Coast Line in the second period was 44.4 per cent less than in the first period. The percentage of reduction simply for all class I railroads in the Southern region was 36.2 per cent; by all class I railroads in the United States 37.8 per cent; and in the number of carloads of lumber transported by the Atlantic Coast Line 42.3 per cent. Now the foot-note indicates that the figures shown in the third quarter of the second period are filled out for the month of September by adding one-half of the number of cars for July and August; the statistics for September not being available (Tes. p. 1755). This in view of the general decline in the number of cars slightly inflates the number of cars shown as moving in the third quarter of the second period. The authority for these figures is the statistics of the Bureau of Statistics of the Interstate Commerce Commission. Now I have compiled another exhibit, showing somewhat similarly the number of carloads of lumber handled by the [fol. 1559] Atlantic Coast Line out of the State of Florida for two periods, by months, beginning with November, 1929, and ending for the first period in March, 1931; and beginning in April, 1931, and ending in August, 1932, for the second period. It will be noted that the lumber traffic from Florida fell off 46.6 per cent during those periods. However, narrowing the comparison down to the change that has taken place since the case before the Commission was closed, and using the 13 months, it will be noted that the reduction during the period August, 1931 to August, 1932, inclusive, under the movement during July, 1930 to July 1931, inclusive, amounted to 39.4 per cent.

Exam. Hoy: It will be received as Exhibit No. 160.

Mr. Adair: The same exception (Tes. p. 1756).

A. (Continued:) I want next to offer a report of the National Survey of Lumber Supply and Demand, made by the Timber Conservation Board of the Commerce Department of the United States on October 29, 1932. I will not go into any discussion of the contents, except to call at-

tention to a statement on the cover that "The Committee Finds that lumber consumption has declined from a total of 35½ billion feet in 1929 to an annual rate of less than 12 billion feet during the first 9 months of 1932. It therefore recommends a further reduction in the stocks to the extent of 3 and 4 billion feet." I have only 3 copies of that.

Mr. Adair: Your Honor, we will object to this exhibit upon the same grounds as those interposed to the last three exhibits.

Mr. Norman: *If it please your Honor, I want to object* on the further ground. Now I think I made it fairly plain [fol. 1560] that I interposed very few objections to anything that anybody wants to offer, but it does seem to me that this is carrying the thing to (Tes. p. 1757) reducio ad absurdum. They have come in here with a voluminous report of the Timber Conservation Board, that I happen to know all about, and there are just a lot of lumbermen that are operating under the auspices of the Department of Commerce, and are undertaking to persuade the lumber industry generally to reduce production—that is the size of it. And they come in here with a report that has no official status at all, and I would not care anything about it, but this record just gets so awfully big, and if we ever want to go into Court, as conceivably that it may, it having been there twice and may go a third time, and having to pay for a record with a lot of stuff in it that is really not germane to the issues.

Mr. Gwathmey: You say that it has no official status? That publication has been officially released and made public document under the date of November 4, 1932. So far as its relevancy is concerned, it is in substantiation of the showing which is made in the exhibit previously offered by the witness, No. 159.

Exam. Hoy: It will be received as Exhibit 161.

Mr. Adair: Your Honor note our exceptions to this (Tes. p. 1758).

A. Supplementing what Mr. Flack put in the record yesterday about the extent to which logs are being hauled by trucks in Florida I have also made a study covering two periods. The first period is from February 8, 1929, to March 25, 1931; and the second period is from March 26,

1931, to October 30, 1932. Now, bearing in mind those two periods I report the following as the advice furnished us [fol. 1561] by the representatives of the lumber companies which I will name. February 8, 1929, to March 25, 1931, and from March 26, 1931, to October 30, 1932. Those are just two periods that I will mention as I go along. The J. W. Jones Lumber Company—

Mr. Norman: Do I understand the witness to say that these are just reports that lumber companies have made to him personally (Tes. p. 1759)?

A. No, I didn't make them. Personally I didn't make them; personally I didn't get them. They were made by interviews with our commercial agents throughout the State of Florida who called upon the lumber companies and got the specific information as to the logs that they are trucking. This investigation that I have made is along the lines of the investigation that was made by Mr. Flack and I want to supplement what he has put in by giving the names of some additional lumber companies. It may have some of the same names, but information as to those who were named by Mr. Flack is somewhat more specific than he gave to the record, showing the logs that have moved into the mill by trucks (Tes. p. 1760) and the distances for which they have moved. That is the point in it.

Mr. Norman: But the difference is, Mr. Examiner, that Mr. Flack made the investigation himself and is testifying from what he learned; what he found out; and Mr. Perrin is taking—we are getting it third-hand from Mr. Perrin. Mr. Perrin gets it from his agent, and the agent gets it from the lumber company.

Mr. Gwathmey: Now Mr. Examiner, all of this was going into the record yesterday. And then we all recognized to a certain extent as hearsay testimony, that of Mr. Flack, [fol. 1562] and that of Mr. True. We didn't object to it simply as going to the extent of showing the best available information for the purposes of a proceeding of this kind as to what the actual movement is. Mr. Perrin has had his commercial agents, and our men locally in the territory, and whose duties it is to keep themselves accurately informed as to the movement of logs or other traffic to make a study at each one of these points. We would like to submit it for what it is worth, with the understanding that

to a certain extent it is hearsay testimony, just as the testimony given by the other witnesses was.

Mr. Adair: Your Honor, if he will bring up his commercial agents whosoever his agents are and put them on here and let them swear first hand, so that we can have the sanctity of (Tes. p. 1761) an oath; some one man that now compiled this stuff, and got it together, and submit to cross-examination on that, it would be — very interesting and beneficial thing. It seems to me strange thing that the very people who got this thing together are not brought here to talk about it, but another officer of the company is brought here to testify as to what they told him.

Mr. Gwathmey: Mr. Examiner, it is not any compilation; it is simply a statement as to what the movement was, and for what distance.

Exam. Hoy: It seems to me that I will have to sustain the objection, that it is hearsay evidence. It is true that the evidence yesterday may have been somewhat similar, but no objection was made to it. Here we have got the results of an investigation made by somebody else. In other words, what Mr. Perrin would testify to would be what somebody told him, what somebody else has told him—his agent has told him—commercial agents.

[fol. 1563] Mr. Gwathmey: * * * men who reported directly to him have given him. Now, that is a part of this man's regular duties. Mr. Perrin is a superior officer, and it is certainly a recognized practice before the Commission.

By Exam. Hoy:

Q. Is it in the nature of a formal report from one of your subordinates Mr. Perrin?

A. It is in a written report from each of them; there are 7 (Tes. p. 1762) or 8 of them, written reports of each of my subordinates, in response to information that I requested them to obtain.

Mr. Norman: And the information is what somebody told him—told the agent—not what the agent found out for himself.

Q. Is this report a result of facts ascertained by the agent himself, or is it a recital of what people have told him?

A. It is of course—he had to get the information from the lumber company itself. For instance the first lumber company I would mention would give him the number of thousand feet he had trucked, and how far he had trucked it; and the agent in reporting that and other lumber companies to me in writing, furnishes me with the information that the lumber companies had given to him.

Exam. Hoy: It seems to me from your explanation there that what you have got are written reports from your subordinates of what various lumber companies told each of them?

A. Yes, sir.

Exam. Hoy: Well I think I will have to adhere to my previous ruling sustaining the objection (Tes. p. 1763).

A. Now, I want to say first, that the situation about trucking in Florida is nothing peculiar in itself, so far as our experience goes, and so far as the territory of the Atlantic Coast Line is concerned from one end of our line [fol. 1564] to the other. There is the trucking of logs; but the extent to which the trucks are moving logs beyond a distance of 25 miles is entirely negligible. In fact we have had many applications, and I have many of them now, seeking reductions in the log rates beyond the trucking rates—not that there is any threat of the trucks operating beyond a reasonable limit, but stating in practically all cases that the supply of the timber within trucking areas is fast being eliminated. As to what I base the statement that the amount of trucking over 25 miles is negligible, I know that of my own knowledge (Tes. p. 7164), that of course is a part of my job. I know of many substantial losses of logs to the railroads that takes place in the territory that the Coast Line serves, and I am supposed to know to the full conditions under which those losses are sustained; but I say without hesitation that the trucking of logs on our system for distances in excess of 25 miles is negligible entirely, and not in any way sufficient to consider truck competition as a means of saving logs from the trucks. Now I do realize this, that throughout the length of our line that the logs are being moved by trucks for these short distances, that we could not recapture regardless of any rates we make, because in practically every case those logs must be brought from the woods before they are carried to the railroad station, and in most cases

the distances from the woods to the loading station would be practically as far as direct to the mill, or represent such a large percentage of the distance to the mill as not to justify the transfer from trucks to cars. I am not going [fol. 1565] to try to tell (Tes. p. 1765) the Commission what it costs us to handle logs by trucks, but I am going to show by my next exhibit the revenues that a truck can earn if it should operate on as low a rate as the Cummer scale, and as low a rate as the scale prescribed in this case by the Commission. I have compiled an exhibit which I would like to present as No. 162. In the State of Florida the legal gross weight permitted is 19,000 pounds—the truck and semi-trailer.

Mr. Adair: The Court and Commission knows—the Examiner knows the law of Florida, and he is charged with the knowledge of the laws of all other States in the Union—the Commission knows that is incorrect, irrespective of the testimony of the witness. If he does not he can ask the regulatory officer here what it is. Mr. Turnbull will tell you. I object to this exhibit your Honor, any testimony in connection with it, in that it is outside of the scope of the issues.

By Exam. Hoy:

Q. Just what is your objection?

A. That is not my idea of the law, and not my interpretation of the law; that is the interpretation of our general solicitor (Tes. p. 1766) in Florida.

Mr. Alston: Mr. Examiner, the purpose of the evidence is to show the inability of the trucks to make a headway into this business, which ought to be checkmated by the intense sacrifices which it is suggested it should make.

Exam. Hoy: In other words, your object here is to show that under certain rates the trucks could not profitably carry the logs?

Mr. Alston: Cannot carry these logs except for limited distances, if at all.

Exam. Hoy: I don't think that is within the scope of this proceeding. We don't care whether they are making [fol. 1566] money on them or not. The question here is as to truck competition, whether there is or is not truck competition; the same truck competition or other condi-

tions as surround these other rates that have been established.

Mr. Gwathmey: How can the trucks operate and compete if they cannot make money?

Exam. Hoy: I don't know; they certainly can.

Mr. Gwathmey: We offer this as bearing on the extent of, or the ability of the trucks to compete in Florida within the (Tes. p. 1767) meaning of the third paragraph of the Commission's order of reopening. It depends upon the conditions in Florida, and the similarity if any between those conditions and the conditions under which other rates have been reduced.

Mr. Norman: The railroads themselves are operating without making any money these days; so is everybody else in the United States.

Mr. Gwathmey: I know that, but we are offering this as bearing upon this particular feature of the case.

Exam. Hoy: I will admit it as exhibit 162, but I don't see what particular weight it has got. It has got something to do with the truck competition we will admit, but I cannot see where it follows, that because a truck cannot make money that it won't participate in the business.

[fol. 1567] Mr. Adair: Note our exception.

Mr. Norman: Certainly have to have some expert evidence to show that they cannot make money.

Mr. Gwathmey: I understand that exhibit has been admitted?

Exam. Hoy: It has been admitted as 162.

(No notation as to filing, because later ruled out.)

Mr. Hillyer: Mr. Examiner, may we understand that your ruling is only subject to the condition that the witness [fol. 1568] shall afterwards qualify to prove the assumption that he started out on. As I understand the record there is no proof here as to the cost of truck operation (Tes. p. 1768).

Exam. Hoy: That is nothing but a mathematical computation as I understand it, based on certain rates, showing what the earnings would be per load of 19,000 pounds.

Mr. Hillyer: I understand that there will be no attempt to show the basis of the contention made by counsel or that there will be any evidence as to the cost of operation of the truck.

Mr. Gwathmey: Mr. Perrin stated that he could not state the cost of operation.

Exam. Hoy: Mr. Hillyer, this just shows the gross receipts per load, or per truck, for certain distances, based on certain charges.

Mr. Hillyer: May I ask also an exception be noted on behalf of the Buffum Company?

Exam. Hoy: Wait a minute Mr. Perrin. Are you going to connect this up in any way by cost of truck operation?

Mr. Alston: Mr. Perrin has stated already that he could not do that. He is going to present some things of the Department of Commerce on cost of truck operation.

[fol. 1569] Exam. Hoy: Well, continue Mr. Perrin.

A. (continued:) The purpose of exhibit 162 is to indicate the reasons why trucks are not operating beyond 25 miles. Undoubtedly for the shorter distances the revenues of the trucks are sufficient to enable them to handle the traffic in competition with the railroads at practically any rate that the (Tes. p. 1769) railroad might make.

Mr. Adair: If your Honor please, we are sorry to interrupt. We must move to strike—The conclusion of the witness as to the sufficiency of the revenue to permit a truck to operate; he has not entirely qualified himself to express such an opinion, nor do I think he can qualify himself to do so.

Mr. Gwathmey: Well, he has presented the figures which would show for instance at 25 miles the revenue per truck mile, per loaded and empty miles, as 4.6 cents.

Examiner Hoy: I think the objection will be sustained. Now you can argue what those figures show. You can argue that they show that.

The Witness: Now, I present as an exhibit a report from [fol. 1570] the United States Department of Commerce, showing result of investigation of the costs of motor-truck operation. I call particular attention to the contents of pages 37—I have only one copy at hand, Mr. Examiner, you can get any number that is necessary and distribute them.

Mr. Norman: If your Honor please, we want to object to this in the first place; we think it would be objectionable if it showed the cost of operating the trucks, but of course

it does not show the cost of operating trucks, and cannot show the cost of operating trucks in Florida, for that depends upon too many varied factors, for instance cost of gasoline (Tes. p. 1770); and I don't see how that it is informative, even that it is competent; and I cannot see its competency or relevancy; and I would like to know on which theory counsel offer it as being competent or informative or anything else. If he can show us in there where it says what the cost of handling or operating trucks is in Florida or any other place.

Mr. Gwathmey: Mr. Examiner, I don't understand in the first place that this study is limited to Florida, although it includes Florida.

Exam. Hoy: Mr. Perrin is testifying now as to Florida, as I understand it.

Mr. Gwathmey: That is quite true. He is testifying as to Florida in connection with his rate testimony, but this is simply a publication gotten out by the Department of the Government which deals generally on the question of the cost of truck operation both in Florida and elsewhere. Now, for what it may be worth it seems to me that it is an official document, and is certainly admissible in evidence [fol. 1571] as the best evidence available on that subject.

Exam. Hoy: I would just like to know what the object is in introducing that. What is the purpose of introducing that? To show the cost of truck operation where?

Mr. Gwathmey: Anywhere, including Florida (Tes. p. 1771).

Exam. Hoy: Mr. Perrin's testimony so far as gone to what I say Mr. Alston terms the third prong of this reopening—that is it goes to show, or tends to show that there is not much truck operation down there; that that is the purpose of introducing this evidence; that there is not a serious problem of truck operation in Florida on logs. Now, I should think that evidence showing the cost of transporting logs by truck in Florida would be pertinent along with other evidence tha he has introduced, but where does that off of the exhibit show the cost of transporting anything by truck in Florida.

Mr. Gwathmey: This compilation does not undertake to submit a study of the cost of operation in Florida independently and separately from other truck operation in other States. It shows the truck lines operated in Florida,

and the location of lines, and things of that sort; and Florida is included with other States in the total truck mileage which is covered by the study.

[fol. 1572] Mr. Gwathmey: We will not insist upon it Mr. Examiner; we will withdraw the proposed exhibit, because it is all that we can offer it for, just general information bearing on that subject.

Exam. Hoy: Are you going to offer any further cost of truck operation?

Mr. Gwathmey: No (Tes. p. 1572).

Exam. Hoy: I think I will reconsider my ruling to 162, [fol. 1573] and sustain the objection to that. As I see it now it is nothing but a matter of mathematical computation; and I think irrelevant, or rather immaterial.

Mr. Alston: May we note an exception to that?

Exam. Hoy: Yes, sir.

Mr. Gwathmey: There is one additional point on which I would like to question Mr. Perry.

By Mr. Gwathmey:

Q. Mr. Perrin, in the course of a question that was asked by Mr. Norman during the forenoon there was some mention of the Louisville & Nashville Railroad as being a family line of the Atlantic Coast Line. Apparently the purpose was to create the impression that in not publishing truck competitive rates the Louisville & Nashville may have been in some way influenced by the Atlantic Coast Line Railroad. Is there now pending before the Commission a proceeding which involves the question as to the extent, if any, to which the Atlantic Coast Line Railroad Company controls in any way the traffic policies of the Louisville & Nashville Railroad?

A. There is. That proceeding is the so-called "Sand and Gravel Case" involving the question of applying single-line scales for joint hauls. That proceeding has reached the stage at which the examiner's proposed report has actually been issued (Tes. p. 1773). I was a witness in that case. Other officials of the Atlantic Coast Line and I testified fully in that case as to the extent to which the Atlantic Coast Line Railroad controls the traffic policies of the Louisville & Nashville. The testimony was to the effect that the Atlantic Coast Line had no control whatever over the policies of the Louisville & Nashville Railroad.

[fol. 1574] Cross-examination:

A. The Atlantic Coast Line also controls the Nashville, Chattanooga & St. Louis, only through the Louisville & Nashville. If there was any control of the Louisville & Nashville there would also be of the Nashville, Chattanooga & St. Louis, but by the same token as in the case of the Louisville & Nashville the Atlantic Coast Line does not control the Nashville, Chattanooga & St. Louis (Tes. p. 1774).

Q. But does the Nashville, Chattanooga & St. Louis—

Exam. Hoy: I don't think it is necessary to go into detail here Mr. Norman; it is not pertinent to the issue.

Mr. Norman: I think it is pertinent in this way Mr. Examiner: this record shows that the Nashville, Chattanooga & St. Louis is operating these car rates irrespective of the weight, and without any tying up of outboard tonnage generally over its system, and if that costs any burden, if it is losing any money, it is the Atlantic Coast Line money that they are losing.

Mr. Gwathmey: Mr. Examiner—pardon me Mr. Norman. I think that very statement illustrates the force of your Honor's remarks. The question as to what the relationship between these railroads is a question that is now before the Commission in a pending case.

Exam. Hoy: It is not before the Commission in this proceeding Mr. Norman.

Mr. Norman: I think Mr. Examiner, it is certainly pertinent and proper to show that the Atlantic Coast Line owns the controlling interest in a company which is doing the very thing that it is here saying casts a burden on interstate commerce.

Exam. Hoy: Well, it has already been shown in this case [fol. 1575] what the Nashville, Chattanooga & St. Louis has done, and shown what the Atlantic Coast Line has not done in the same respect; and it is generally known that the Atlantic Coast Line (Tes. p. 1775) controls the Louisville & Nashville, and the Louisville & Nashville controls the Nashville, Chattanooga & St. Louis. I think the Commission is fully aware of that fact. I don't know why it is necesssary to go into that in detail in this proceeding.

Mr. Norman: All right; that is perfectly all right.

Q. Now Mr. Perry, inasmuch as I have started I will just go ahead. I understand you to say that so far as you know

there is no substantial difference between truck competition in Florida and truck competition in other Southern states; is that correct?

A. On our railroad; yes sir, in Virginia, North and South Carolina, Georgia and Alabama. As to whether there is any substantial difference in truck competition in those states, and any other states such as Tennessee, Mississippi, Louisiana, and Arkansas, I am not familiar with those. I have no information on it.

Q. And you are not here undertaking to show that there is any difference in the truck competition in Florida from the truck competition in those other states? (Tes. p 1776).

A. I am not in position to say anything about the truck competition in the other states, and I make no such claim, certainly not, if I don't know it.

Q. Now, Mr. Perrin, you have shown here that your log traffic in Florida has fallen off very much less than your lumber traffic, comparing the periods from July 1, 1930 to July 30, 1931, with August 1931 to August 1932, it has fallen off [fol. 1576] very much less than has your lumber traffic, and you state that in view of the general depression in business generally, that it has been most surprising how little it has fallen off. Do you think that the fact that your rates are more nearly in line in Florida with the truck competitive rates, your rates on logs, are responsible for that most gratifying showing?

A. No sir. As a matter of fact if you will study those exhibits you will find that our heavier movement of logs in Florida since the trucks have been operating was under the higher scale of rates.

Q. But the truck competition, as has been testified to here, has been steadily getting more pronounced, and you have been steadily losing various kinds of business to the truck; and it appears here from your testimony that under the operation of the Cummer (Tes. p. 1777) scale in Florida you have lost a smaller percentage than has been lost to the lumber traffic generally, and of all traffic generally. Now, isn't that due to the fact that you have during that period been operating under a scale of log rates that compares favorably with truck charges?

A. In the first place I don't know that there has been any testimony that there is increased truckage in the last year over what there was in the previous year in Florida;

certainly the trucking has been going on in Florida for more than two years. There have been more roads every year; more trucks every year, but Florida was one of the earliest road builders, and they had their roads long before anybody else had them; and there have been trucks operating in Florida longer than any other Southern State. [fol. 1577] I think that this most surprising and gratifying showing as to the small percentage of loss in log traffic would have been made or could have been made under the scale of rates that was in effect in Florida from February 8, 1929 to April 10, 1931 (Tes. p. 1778). I do not think that the trucks would have taken any more logs away from us under the interstate commerce scale than under the Cummer scale, to any substantial extent.

Q. Then, according to your idea, the railroad charge for transportation has nothing to do with how much you lose to trucks? In other words, you can charge twice as much, and you won't lose any more traffic than if you charged half as much?

A. I say the results speak for themselves. When we had higher rates in we had more competition with trucks than we do now, as indication of the fact that the log movement now is at a low ebb, because of the small consumption of logs. As to whether our percentage of log traffic under the Cummer scale has been less than our percentage of loss of lumber traffic, of lumber traffic, oh, yes.

Q. And you think that the fact that your charge was in line with these truck competitive rates had nothing to do with that, and that you would have lost just as small a percentage if you (Tes. p. 1779) hadn't charged twice as much for hauling logs as you would when you had charged half as much for the logs?

A. If the Commission scale was twice as high, I will say that because the record speaks for itself to that effect. It is the policy of the Atlantic Coast Line Railroad to meet truck competition by reduction in rates, to a very guarded extent. We have found this, however, that for these short haul movements, not only of logs, but of other commodi- [fol. 1578] ties, that you don't accomplish anything by reducing the body of your rates, because they merely serve as a measure for new rates by the truck.

Q. If you have felt that you might do something to hold some of your traffic by reducing your rates on other com-

modities to meet truck competition, why is it you think that it won't have any effect on the log traffic whether you charge twice as much or not?

A. I will illustrate that in the case of cotton. Cotton and leaf tobacco are perhaps the most subject to truck competition among the major lines of traffic that we handle. We reduced the rates on cotton very greatly. We don't get the cotton even under the greatly reduced rates because of the conditions under which cotton is handled. Most of the cotton in our territory goes to the ports. The ports are distributors of merchandise to the interior: the trucks can handle cotton very cheaply to the ports because they get a return load of merchandise and (Tes. p. 1780) in that way there is a condition attached to cotton that would not attach to logs or other commodities that move between what might be called country or interior stations.

Q. Well, the fact is that on logs you have now in effect what are substantially truck-competitive rates, haven't you?

A. The Cummer scale, not made as such, but they are certainly low enough to meet any condition that the truck might create. I don't know whether it would get the traffic even at that, because some of these trucks work pretty cheap, but I do know this, that rates under the Cummer scale had no relationship at all to truck competition.

Q. Well now Mr. Perrin, it is in evidence here that a [fol. 1579] large number of railroads, some of them the largest railroads in the South, and in fact including all of the largest railroads in the South, and Southwest, except the Louisville & Nashville, and Atlantic Coast Line have seen fit to establish and put into effect certain carload rates applicable irrespective of weight, and I would like to have you tell me what are the differences, if any, other than the fact that you already have a truck competitive rate in the Cummer scale in Florida as between the situation in Florida and the situation confronting the traffic executives of these numerous other railroads operating throughout this territory? (Tes. p. 1781).

A. Well, I could not speak for what the traffic executives of the other lines did, but I know our own situation.

Q. Well, I will ask you to tell me if you can, any substantial difference in the conditions in Florida and the conditions existing in these other states other than the fact

that you already had in Florida a truck competitive rate on logs?

A. I have already said that I have no information at all about the truck competitive conditions in these other states.

Q. Well, do you know any other conditions—truck or anything else that distinguishes the situation in Florida than from the situation generally throughout this whole great territory now?

A. I don't think that there is any difference in conditions in Florida, except as a customary thing the rates in Florida ought to be slightly higher than the rates in the remaining parts of the South. That is all the difference that I know of now that would apply equally in Florida as applies throughout this whole territory where all these other railroads have reduced these rates but that does not mean that [fol. 1580] the rates of the other lines in the other parts of the South should be made effective in Florida (Tes. p. 1782).

By Mr. Adair:

Q. Mr. Perrin, do you consider that the fact that some of these other rates are transit rates would make any difference in the level of the rates of the other lines?

A. I don't know.

Q. Is it not a fact that the Cummer scale in practical operation and effect operates as a transit scale? I mean this: that you and the Southern and the Seaboard, in Southeastern territory get say nearly all of the outbound over your road—that your regular rates are made upon a transit basis or local basis?

Mr. Gwathmey: Now, if the Examiner please, we have no disposition whatever to prevent an answer to that question so far as the information itself goes, but I call your Honor's attention to the fact that Mr. Adair has now opened up the very question about which the Examiner ruled at the outset of this hearing, and up to the time everybody has refrained from going into it, and I think perhaps it is rather a late date to start now.

Exam. Hoy: I don't think we will go into that question Mr. Adair.

Mr. Adair: Your Honor, they have given many reasons why (Tes. p. 1783) some of the other railroads have, their

witnesses, as to why that rate was put in there to control the traffic. I now propose to prove by their own witness that in practical operation and effect that the Cummer scale is tantamount to a transit scale for Florida.

[fol. 1581] Mr. Gwathmey: And he is undertaking to do that Mr. Examiner, by cross-examining the witness who has not testified to the transit rates of other railroads, and on the contrary has expressly disclaimed familiarity or knowledge of the situation.

Mr. Adair: This witness has testified in the proceeding involving this thing before to that very effect, which I propose to show, if the Examiner will permit me to do so.

Exam. Hoy: You may cross-examine the witness upon his direct testimony here today Mr. Adair; and I cannot see where that question is pertinent to any direct testimony that he has offered.

Mr. Adair: Your Honor, do I understand, do I construe you to rule that I have no right to inquire of this witness as to whether there is any difference between the operation of the Cummer scale as a transit scale in Florida?

Exam. Hoy: Yes, and the reason for that is that I think it is beyond the scope of the direct testimony of the witness. Well, that is a sufficient reason right now.

Q. Mr. Perrin, you said that the negligible amount of traffic, or amount of logs moving in trucks over 25 miles was negligible (Tes. p. 1784). How do you know that?

A. From our study of the situation. I know in a general way. I could not say in respect to every point, but I do know that the trucking of the logs is limited in its area. I have sat here during these proceedings; I heard this testimony from various of these witnesses, that logs were trucked—some of them testifying themselves that they trucked for substantial distances over and above 25 miles; [fol. 1582] and I also heard Mr. Flack name the distances that they were trucked in Florida, and I don't think that there was hardly a place where it was in excess of 25 miles.

Q. Well, that is a matter that the record will show, and I differ with your view on it. You heard Mr. Bryson testify, didn't you? He had been transporting up to about 70 miles?

Mr. Alston: Your Honor, do you think that helps at all? It is all in the record.

Exam. Hoy: It is all in the record.

Mr. Adair: I think it helps materially. I resent this witness swearing to an opinion like it is a fact (Tes. p. 1785).

A. Mr. Adair, when I say negligible—when I say that the trucking beyond these short distances is negligible, I have not said that there is no trucking beyond those distances, but I do say that the extent of the trucking beyond those distances is so small as to not justify any consideration of the trucking competition as a whole, and you may consider it as effective only within the usual range of truck operations.

Q. What study have you made, Mr. Perrin, of the amount of logs that are trucked in Florida over 25 miles?

A. I have made a study here that I would have put into the record but for the objections.

Q. You have not made it yourself?

A. Well, I have got the record of what is being done by direct from the shippers and I——

Q. (Interrupting:) That is your whole source of information, is it?

A. That is the best source that I know of, is from the shipper himself. That is the only source of my information.

[fol. 1583] By Mr. Hillyer:

Q. Mr. Perrin, in answer to a previous (Tes. p. 1786) question you made a statement which I would like to clarify a little. I think you said that the rates in the Florida section were generally higher than in the South?

A. No, I didn't. I was speaking then of difference in conditions, and I said that as far as conditions are concerned there was a reason why the rates in Florida might reasonably be higher than in other parts of the South. In making that statement I had in mind Southern States, in the South—well, Southeast, if you prefer to call it that way. I didn't have in mind the States west of the Mississippi River. I spoke of the South, and not the Southwest. I would not say then that the rate level in the Southwest is lower than in Florida—I would not say that, and I did not say what is the level of the rates anywhere. I spoke of the difference in conditions that has been recognized

generally, and many many times by the Commission as justifying higher rates in Florida than in other points in the Southeast. I had in mind particularly the class-rate adjustment and commodity rates.

Q. Now, is it not a fact that the class-rate structure in the Southwestern States is higher than in Florida?

A. I don't know about that (Tes. p. 1787).

[fol. 1584] Redirect examination:

A. In the discharge of my duties as freight traffic manager of the Atlantic Coast Line Railroad Company, I of course have jurisdiction as to such matters of the Atlantic Coast Line in the State of Florida. Throughout the development of the truck industry during the last few years, and while this case has been pending—the case has been pending now more than six and a half years substantially—I have kept informed as to that development throughout the lines of the Atlantic Coast Line. I think I have kept very thoroughly in touch with the situation, and know certainly as to points of importance as to what has taken place since this case has been going on. As a matter of fact, as traffic manager of the Atlantic Coast Line Railroad Company, it is one of my important functions and duties to keep myself informed through every available source as to the extent to which trucks are in fact taking the business away from our railroad, not only in Florida but elsewhere on its line, and as to the advisability or the practicability of the railroad (Tes. p. 1788) reducing its rates on account of that competition, and I would not hesitate to say that from 75 to 80 per cent of my time is given to a study of truck competition.

C. D. Thomas, recalled as a witness, having been previously sworn, testified as follows:

Direct examination:

A. In reference to Charleston creosoting movements, I only undertake to explain this tariff in so far as it reads. I am not familiar with the haul particularly or sufficiently [fol. 1585] leading up to it, to go into it other than what the tariff shows itself. If I may confine my remarks to

that I will be glad to undertake it. This is a tariff which authorizes the creosoting in transit of carload shipments of conduits, cross-arms, cross-ties, fence posts, lumber, paving blocks, piling, poles, and timber at Charleston, South Carolina when originating at certain (Tes. p. 1789) origins, generally on and east of a line of the Southern Railway from Sumter, South Carolina, through Columbia, South Carolina, to Augusta, Georgia. Reshipment under this tariff is permitted to Eastern—Interior Eastern and New England points, Virginia Cities, and to a territory which we know in railroad parlance as the Mid-East, meaning sections of Virginia, West Virginia, and the Eastern portion of Kentucky. The tariff provides a set of charges under Item 1 into Charleston, which are assessed in addition to the through rate, plus also the transit charges of 2½ cents per 100 pounds. The set of charges which I understand have been referred to are those in Item 1 on page 4, and as a practical matter, while not so stated, they amount substantially to a set of back-haul charges. Back-haul charges are lower than other charges in common use. The tariff provides that the rate to be protected shall not be less than the rate from the original point of origin to final destination, plus the transit charge. It may not be clear upon first reading of the tariff, just what the basis for collection or final settlement of the charges is. It is not a tariff under which we assess the rate from the transit point to final destination plus this net scale in Item 1, plus the transit charge, because Paragraph G of Rule 18 provides—now this is a quotation—"In no case shall the net [fol. 1586] rates protected be less than the through rate from original point of origin to final destination in effect on date of shipment plus (Tes. p. 1790) the transit charge." This more nearly explains what I have just said.

Mr. Hillyer: Mr. Examiner, we were asked to submit a list of the certified tariffs which were filed in evidence. We have had that list made up now, and it shows the name of the railroad, and the tariff suplement, and the effective date. Those effective dates may not accord with those shown on the Commission's statement, because the Commission has shown the date the tariff was issued in certain instances, but otherwise I think they are approximately correct as to the dates. Now in the last column there are some symbols designating whether the tariff is a local

tariff, a proportional tariff, or a transit tariff, as testified to by Mr. Green. We submit this as our Exhibit No. 140-A.

Exam. Hoy: This is 140-A (Tes. p. 1791), received in evidence.

L. F. SHORE, called as a witness, being duly sworn, testified as follows:

Direct examination:

A. L. F. Shore, 234 Ives Street, Jacksonville, Florida. I am logging superintendent for F. M. Buffum Company, Incorporated. I was asked to furnish the inbound movement of logs received by the Buffum Company by truck during the year 1932. We offer this statement for identification as our Exhibit No. 162. The statement was thereupon received in evidence. I compiled this statement "Inbound Shipment of Logs Received by the Buffum Company" (Tes. p. 1792). In the first column showing the origins, I have shown the nearest railroad point, to the [fol. 1587] timber area, I have used then the origins in the sense of the timber areas in the vicinity of those railroad points in the average railroad mileage. I have taken an estimated mileage from the point where the logs might reach the railroad. These average railroad distances will perhaps not agree with the exact railroad distance tables. In taking the truck haul mileage I had in mind the location of the timber. I converted the number of feet board measure in to the number of equivalent carloads. We used an average of 4,231 feet. That is the same average which was used on Mr. Buffum's exhibit (Tes. p. 1793). By Doyle-Scribner measurement. Generally there are paved highways in the vicinity of the railroads reaching the points shown on this list, with the exception of one point the highways parallel the railroads into Jacksonville, with the exception of the point listed here as Lem Turner road. It is between two railroads, a distance of about six miles I would say. As to whether there is anything peculiar about that timber area along the Lem Turner road, it is an exceptionally low bad looking country, and the people that we have been logging this timber have better facilities to get this timber into Jacksonville than the ordinary logger does. They have to use caterpillars to pull these logs to the highway. The tractor movement is necessary.

This last point which will be Baldwin, Florida (Tes. p. 1794), on the exhibit, that railroad mileage there is the approximate mileage from Baldwin to Jacksonville, from the timber area.

Q. Now, what is the highway distance from the same point from which you would measure the real distance? In other words, is there any real difference between the railroad mileage and the highway mileage from those, any point you have in mind, into Jacksonville?

[fol. 1588] A. Very little from Baldwin. This point that I have in mind where the logs might reach the railroad is about three miles west of Baldwin. As to how far the highway is from the railroad, they are right parallel; just a few hundred yards difference in distance between them. The timber areas that I have in mind there in the Baldwin section have a 10-mile area, about 10-mile diameter (Tes. p. 1795). There are timber areas there about that extent on both sides of the railroad and the highway, so that the timber from one area would have to cross the railroad to reach the highway, and from the other area would have to cross the highway to reach the railroad. These logs are brought from this 10-mile timber area up to the hard-surfaced road on the railroad by trucks. They are not brought on hard-surfaced roads. It is all sand roads, and some swampy wood roads, not any hard roads at all. The trucks cannot carry a full load from the timber up to the highway or the railroad. They can only carry about 60 per cent. of their load until they get to the highway. After they get to the highway, they would have the choice of shipping by rail or by truck into Jacksonville, for approximately the same distance. This difference in mileage between 20 miles by (Tes. p. 1796) railroad, which I show, and 32 miles by truck, takes into consideration the truck haul over the sand road, as well as the paved highway. In either event it would have to be hauled over the sand road at less than the maximum capacity, before it reached either the hard-surface road or the railroad.

Q. Now, let us take the last portion of your exhibit. An inquiry was made as to the Seaboard cars, or the cars of logs which came in over the Seaboard, as shown on Mr. Buffum's Exhibit. What kind of logs were those logs, Mr. Shore?

[fol. 1589] A. These were ash logs. They were a much more valuable class of logs than the class of timber that we have ordinarily been sawing. These were not Mr. Buffum's lots. We were purchasing these logs for the account of another company, and they were paying for the logs, and having them sawn at our plant. It was an unusual operation. They had some orders that they were anxious to fill, and were very anxious to get these (Tes. p. 1797) logs at that time.

Q. Now, the question was asked whether the Seaboard Air Line Railway's charges on logs were not about the equal of the Commission's scale. Now, will you give an illustration here to show what was paid on some of these cars under that Seaboard scale at—take Sumner for example.

A. From Sumner the Seaboard scale is based on so much per thousand feet, board measure. That rate is $6.19 per thousand feet for a distance of 119 miles; and the I. C. C. rate would be—that $6.19 a thousand on 50,000 pounds would figure $22.10 per car; and the I. C. C. rate would be $30.00 for a car of 50,000 pounds. In other words, on that car the Seaboard's scale would produce considerably less revenue than the Interstate Commerce Commission scale for the same distance, absolutely (Tes. p. 1798). Exhibit No. 162, these are all truck movements. Yes, you already have an exhibit showing the rail movements. As to what proportion of the logs which moved from the vicinity of South Jacksonville were brought out of the forest in trucks, they were all brought out of the forest in trucks. As to how far you would have to haul to a railroad, it would be from 2 to 6 miles. As to Bayard, and how many of those logs were brought out of the forest by truck, all that is on this exhibit were brought out by truck.

[fol. 1590] *A.* All right. Now, tell me as a rule, if you please, how far those logs would have to have been brought by the truck to get to a railroad station? I would like for you to make an estimate down this list (Tes. p. 1799), please. I don't want to bore you by going through each of those; in other words suppose that a truck picked up the logs at point "X" in the forest, now how far would they have had to have gone from there to the railroad station?

A. Well, from Bayard it would have been—you understand there is a big swampy territory in there, you know,

that I have covered in an area of several miles. And I would say from Bayard from the swamp to the railroad would be an average haul of about 6 miles. And from Densmore—well, that would be practically the same thing. The timber lies from the railroad back ten miles, that is practically all of that.

By Mr. Gwathmey:

Q. We have taken your exhibit No. 162, and have calculated that the average weighted haul per carload by truck is 30.6 miles. Have you made such a calculation?

A. No, sir; I have not.

Mr. Gwathmey: It is merely a matter of mathematical calculation Mr. Examiner, and if I may be permitted I will just call attention to the figure, which can be verified from the exhibit itself (Tes. p. 1800).

COLLOQUY

Mr. Hillyer: Mr. Examiner, we proffered certain testimony through Mr. Buffum which was excluded. We understood that if there was anything advanced by the railroads upon that subject that we perhaps would be permitted to introduce that evidence in rebuttal. The offer of proof was that the Buffum Lumber Company had received inbound over the Atlantic Coast Line Railroad about 34 per cent of its supply of logs, whereas on outbound shipments of lumber the Atlantic Coast Line Railroad had received about [fol. 1591] 56 per cent of the total outbound shipments. We had an exhibit, and there has been some testimony in support of that proposition which we offer to prove. Now do I understand that that still comes within the scope of the ruling, or that we should be permitted to show the relation of the inbound and outbound tonnage?

Exam. Hoy: Well, the Examiner still thinks that that would not come within the scope of the reopened proceeding.

Mr. Hillyer: And the record should stand just as it is now?

Exam. Hoy: Yes, sir. His ruling is to that effect.

Mr. Adair: Your Honor, I would like to have the same proffer—to make the same proffer, and have the same ruling, in case there is any change of conditions.

Exam. Hoy: What is your proffer? (Tes. p. 1801.)

Mr. Adair: Proffer to prove the substantial operation and effect of the Cummer scale would be the same as a transit operation.

Mr. Alston: We object to that, because it is too general, together with the other statement—that statement is rather too general.

Exam. Hoy: You make that proffer at what point? Each and every point?

Mr. Adair: No, I propose to show that, and want to so show by one or more shippers as being typical.

Exam. Hoy: One or more; how many?

Mr. Adair: Your Honor, I could only show one at a time. I am speaking now for the Wilson Cypress Company.

Exam. Hoy: Well, the Examiner's ruling is the same as he just expressed in response to Mr. Hillyer's proffer.

[fol. 1592] Mr. Alston: I would like to have it understood that to our general objection we make the general objection that Mr. Adair's proffer is too general.

Exam. Hoy: No, sir.

Mr. Adair: I understand your Honor not to rule it out on that account.

Exam. Hoy: I ruled it out for the same reason that I ruled out Mr. Hillyer's.

Mr. Adair: And ruled mine out—ruled out my offer?

Exam. Hoy: On the same grounds; yes, sir (Tes. p. 1802).

Mr. Adair: Your Honor, on last night some one was good enough to call our attention to an irregularity in our Exhibit No. 143. I will ask that the caption to each sheet be corrected by changing the word "at"—the first word in the second line of the captions, to read "of", so that the caption would then as corrected read, "Shipments to Wilson Cypress Company of Palatka, Florida, of over 70,000 pounds included in restitution claim." That is at the head of each sheet. That is 143. And by adding the following words to that caption: "Destination Palatka, unless otherwise shown." And on sheet 16 of that same exhibit on the 29th from the bottom, first item in the third paragraph on the right-hand side, in the right-hand margin, place opposite that item "Cross City," and ditto each of the other items on that sheet. Weight of the first car 73,300. On

sheet 17, opposite the first item in the right-hand margin place the words "Cross City," and ditto the next five items. Six in all on that sheet (Tes. p. 1803).

Mr. Adair: Your Honor, we indicated on yesterday we were trying to get a map showing the lines in Southwestern [fol. 1593] territory in a general way, so as to illustrate the tracks over which these new rates in mass are applicable, and we have gotten maps today, Rand-McNally map, which at least shows all of the principal lines; I am not sure it has got all of the branches in there. This was the largest one we could get on such short notice. We now offer this in evidence, and the others, three more, are being worked up now, and additional ones will be furnished here to the Examiner, and the additional one given to our adversaries.

Mr. Gwathmey: Mr. Examiner, may I ask a question about these maps?

Mr. Adair: Please don't ask me to make any representations about it, because I dont know enough personally about it to warrant——

Mr. Gwathmey: Let me ask you, and decide whether or not you want to answer it. Are your people contending that this map, or the previous maps that you have offered here correctly portray the territory over which these so-called truck competitive rates apply?

Mr. Adair: Yes, that is our contention, and while I didn't make up any of these myself.

Mr. Gwathmey: I merely want to call your attention to this. You show on all of these maps for instance the entire line of (Tes. p. 1804) a given railroad; you have shown that in colors. Now, it might be inferred from the map just by looking at it that the competitive rates apply everywhere on the line of that railroad. I think that if the maps are received it ought to be with the qualification that they are subject to the explanations that have been made by other witnesses, which are to the effect that the rates do not apply between all points on that line.

[fols. 1594 & 1595] Mr. Adair: Unquestionably all of the new rates do not apply between all points on all roads that issue them, but our understanding is that the new rates are applicable, or we believe them to be applicable over each mile of rail that is marked in blue there from some point of origin to some destination over that line.

Exam. Hoy: That will be received as Exhibit No. 163 (Tes. p. 1805).

Exam. Hoy: Is that all you have got Mr. Adair? Mr. Adair, have you got any further evidence.

Mr. Adair: I am asking my associates now. No, your Honor, we have nothing further.

Exam. Hoy: Is there any other party who desires to be heard in this proceeding? If not, the record will be closed for the receipt of evidence (Tes. p. 1806).

After taking of testimony was concluded oral argument was heard by Examiner Hoy.

[fol. 1596] PLAINTIFF'S EXHIBIT #2

INTERSTATE COMMERCE COMMISSION, WASHINGTON

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of the following:

Motion to Reopen Report and Order, filed March 5, 1931.

Motion to Reopen Report and Order, filed March 7, 1931.

Answer of Brooks-Scanlon Corporation, Wilson Cypress Company, and Cummer Cypress Company, Interveners, to Motions of Atlantic Coast Line Railroad Company, Defendant, and Georgia Public Service Commission, Complainant, to Reopen Report and Order Herein, filed March 27, 1931.

Answer and Reply of State of Florida and Florida Railroad Commission to Motion to Reopen Report and Order Filed by Georgia Public Service Commission and by Atlantic Coast Line Railroad Company, filed March 27, 1931.

Order of the Commission entered April 6, 1931.

Notice of the Commission dated April 21, 1931.

Order of the Commission entered April 28, 1931.

Transcript of the stenographer's notes of the hearing held June 10, 11, and 12, 1931, at Jacksonville, Florida, before Examiner E. J. Hoy, and of exhibits filed at said hearing.

Order of the Commission entered July 7, 1931.

Transcript of the stenographer's notes of the hearing held July 20, 21, 1931, at Washington, D. C., before Examiner E. J. Hoy, and of exhibits filed at said hearing and in response to requests made at said hearing.

Report on Further Hearing Proposed by E. J. Hoy and P. S. Peyser, Examiners.

Order of the Commission entered December 24, 1931.

Report and Order of the Commission, filed and entered July 5, 1932..

Order of the Commission entered July 28, 1932.

Order of the Commission entered August 13, 1932.

Motion on Behalf of Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company, and Wilson Lumber Company of Florida, for Postponement of Effective Date of Final Order Outstanding in this Proceeding, filed August 11, 1932.

Petition on Behalf of Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company, and [fols. 1597 & 1598] Wilson Lumber Company of Florida, Intervening Florida Log Shippers, For Further Hearing In, and Reconsideration Of, filed August 18, 1932.

Petition on Behalf of the State of Florida and The Florida Railroad Commission for Further Hearing In, and Reconsideration Of, filed August 24, 1932, and

Order of the Commission entered August 25, 1932,

in case No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 10th day of September, A. D. 1932. George B. McGinty, Secretary of the Interstate Commerce, Commission. (Seal Interstate Commerce Commission.)

[fol. 1599] BEFORE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 18364

GEORGIA PUBLIC SERVICE COMMISSION

vs.

ATLANTIC COAST LINE RAILROAD COMPANY

MOTION TO REOPEN REPORT AND ORDER—March 5, 1931

Now comes Atlantic Coast Line Railroad Company, the defendant in the original petition filed by Georgia Public

Service Commission, and respectfully represents unto this Honorable Commission as follows:

1

The Georgia Public Service Commission filed its petition to this Commission against your movant, Atlantic Coast Line Railroad Company, in which it sought relief against [fol. 1600] certain rates and conditions as to the transportation of logs in the State of Florida, all of which is more particularly set out in the petition of the said Georgia Public Service Commission which is referred to. The said complaint sought relief against intrastate rates in Florida over the lines of the Atlantic Coast Line Railroad Company for the transportation of logs, which were alleged to be unduly prejudicial and disadvantageous to the interstate shipper in Georgia and caused undue, unreasonable and unjust discrimination against interstate commerce.

2

The said complaint was based upon violations of Sections 1, 2, 3 and 13 of the Interstate Commerce Act, and the issue which was made by said complaint and the answers thereto and the petitions of intervention made a proceeding before this Commission under each of the above mentioned four sections, and the said cause proceeded as a complaint, especially under Sections 3 and 13 of the Act to Regulate Commerce.

3

A large number of persons, associations and partnerships intervened. The said cause was placed at issue, evidence was taken thereon, and this Commission filed its report and order therein. The said report and order were [fol. 1601] promulgated on the 2nd day of August, 1928, (146 I. C. C. 717). Said report and order are referred to as fully as though made a part hereof. This Commission moved forward the effective date of the said order and the same became effective on the 8th of February, 1929. In the meanwhile two amendments to said order were made by this Commission.

4

Subsequent to the rendition of the Commission's original order, the State of Florida and the Florida Railroad Com-

missioners filed a bill in equity in the United States District Court for the Northern District of Georgia seeking to have the above mentioned order set aside and nullified. Another bill was filed in the said Court by Brooks-Scanlon Corporation, Wilson Cypress Company and Cummer Cypress Company; and another was filed in the said Court by Wilson Lumber Company. Each of said bills had for its purpose the setting aside and nullifying of the said order. The parties defendant in said bills were the United States and the Interstate Commerce Commission. Hearing was had thereon and on the 17th day of January, 1929, the said Court rendered an opinion and judgment, which is reported in 30 Fed. (2d) 116. Said opinion and judgment are referred to and made a part hereof. Said decree dismissed the above mentioned bills, but stated that the order of the Commission should be construed so as to be confined to [fol. 1602] points of origin in the territory mentioned in the said reports of this Commission called northern Florida.

5

The complainants in the above mentioned bills thereafter filed supplemental bills in said court, the Atlantic Coast Line Railroad Company intervened, and hearing was had thereon, and the court on the 22nd of March, 1929, filed its opinion, which is reported in 31 Fed. (2d) 580, and is referred to, and a decree was entered on said opinion on April 22, 1929. The result of this litigation was that the bills were dismissed and this Commission's order as aforesaid was sustained. Appeals were taken to the Supreme Court of the United States, which Court on the 5th day of January, 1931, rendered its opinion and the decree of the lower court was reversed.

Said opinion of the Supreme Court of the United States contains the following:

"The Commission made no findings as to the revenue which had been derived by the carrier from the traffic in question, or which could reasonably be expected under the increased rates, or that the alteration of the intrastate rates would produce, or was likely to produce, additional income necessary to prevent an undue burden upon the carrier's interstate revenues and to maintain an adequate transportation service.

[fol. 1603] "The question is not merely one of the absence of elaboration or of a suitably complete statement of the grounds of the Commission's determination, to the importance of which this court has recently adverted (Beaumont, S. L. & W. R. Co. v. United States, decided November 24, 1930, 282 U. S. — ante, 41, 51 S. Ct. 1), but of the lack of the basic or essential findings required to support the Commission's order. In the absence of such findings, we are not called upon to examine the evidence in order to resolve opposing contentions as to what it shows or to spell out and state such conclusions of fact as it may permit. The Commission is the fact-finding body and the Court examines the evidence not to make findings for the Commission but to ascertain whether its findings are properly supported. If the facts as to intrastate transportation of logs in Florida are such as to justify an order as to intrastate rates in order to end an unjust discrimination as against interstate commerce either as between persons and localities, or because of an undue burden upon the revenues of the carrier, the Interstate Commerce Commission is still at liberty, acting in accordance with the authority conferred by the statute, to make such determinations as the situation may require.

"We conclude that the portion of the order of the Commission which is now under review, with respect to intrastate rates, is not supported by the findings of the Commission and this part of the order must be set aside."

[fol. 1604] The said opinion of the Supreme Court is referred to.

6

Movant respectfully shows that it is necessary that this Commission reopen the said cause and proceed therein to make such additonal findings and orders as may be proper in the light of the opinion of the Supreme Court of the United States in this cause.

7

Movant has been served with notice by the Railroad Commissioners of Florida of their purpose to enter an order in the cause, the effect of which will be to undertake to en-

force the old rates which this Commission found to be unreasonable and discriminatory for the movement of logs over the lines of this movant for distances up to one hundred seventy (170) miles and for distances beyond one hundred seventy (170) miles in the State of Florida, and it is necessary that this Commission proceed in this matter with such expedition as may be possible, having in view the record already made and the actions already taken by this Commission.

8

Movant further shows that there have been filed in the District Court of the United States for the Northern Dis-
[fol. 1605] trict of Georgia by the Brooks-Scanlon Corporation, Wilson Cypress Company, and Cummer Cypress Company, as well as by the State of Florida through the Railroad Commissioners of said State, motions for decree in accordance with the mandate of the Supreme Court of the United States, and in addition for an order or orders directing restitution to be made by this movant to the aforesaid lumber companies, as well as to numerous other shippers, both named and unnamed, based upon the difference in charges on shipments alleged in said motions to have been made during the intervening period since February 8, 1929, as computed on the intrastate rates theretofore in effect in Florida, on the one hand, as contrasted with the intrastate rates which were established by this movant in compliance with the order of this Commission, on the other hand, and that the aggregate of the amounts set forth and claimed in said motions, exclusive of additional amounts claimed by undisclosed shippers and as yet unestimated therein, is approximately $216,000, plus interest at the rate of 8 per cent. per annum, as more specifically described in said motions, as follows:

In the motion of Brooks-Scanlon Corporation, et al.:

"Brooks-Scanlon Corporation, approximately the sum of $5,900.00.

Wilson Cypress Company, approximately the sum of $153,000.00.

[fol. 1606] Cummer Cypress Company, approximately the sum of $48,500.00."

and in the motion of the State of Florida:

"Eugene Stacy	$408.51
Hazzard Brothers	459.25
F. S. Buffum & Company	1345.28
Gress Manufacturing Company	208.24
Thompson-Katz Lumber Company	5214.36
Wilson Otwell Lumber Corporation	156.27
Hessler Hardwood Company	902.11"

This movant has been notified that said motions will be brought up for hearing before the District Court at Atlanta, Ga., on March 7, 1931.

Movant directs attention to the fact that the foregoing shipments are alleged in said motions to have been made subsequent to February 8, 1929, and the foregoing claims are alleged to have accrued in connection therewith, notwithstanding the fact that in the proceedings before this Commission it was contended and urged on behalf of the same shippers, or some of them, that an increase in the intrastate rates would cause a material falling off in the volume of traffic to be offered for shipment, thereby preventing any substantial increase in the aggregate intrastate revenues of the carrier upon such traffic.

[fols. 1607 & 1608] Wherefore, movant prays:

(a) That the Georgia Public Service Commission, and all of the persons, associations, partnerships or corporations who have intervened in this cause, be given notice of this motion; that the State of Florida be notified thereof; that this Commission proceed to make such further findings and to issue such further reports and orders in this cause as it may deem to be requisite or necessary.

(b) That this Commission prescribe such intrastate rates in Florida for the transportation of logs over the lines of this movant, for distances up to one hundred seventy (170) miles, and for distances beyond said one hundred seventy (170) miles, as may be lawful.

(c) That this Commission issue such other and further reports, findings and orders as this Commission may deem proper.

Respectfully submitted, Atlantic Coast Line Railroad Company, by Carl H. Davis, Robt. C. Alston, Frank W. Gwathmey, Its Attorneys.

March 5, 1931.

[fol. 1609] BEFORE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 18364

[Title omitted]

MOTION TO REOPEN REPORT AND ORDER

Now comes Georgia Public Service Commission, the above named complainant, and respectfully represents unto this Honorable Commission as follows:

1

Heretofore on the 3rd day of May, 1926, this complainant filed its petition against the Atlantic Coast Line Railroad Company seeking relief against certain rates and conditions as to the transportation of logs described in the said petition. The object of said complaint was stated in said petition to be "to secure reasonable rates on logs from all points on the Atlantic Coast Line Railroad, as hereinafter shown, within the State of Florida, to all destinations on the Atlantic Coast Line Railroad in the State of Georgia, and to have removed any unjust discrimination or undue prejudice found to exist as provided in the Interstate Commerce Act." Said complaint alleged, amongst other things, that by reason of the facts stated in the complaint. [fol. 1610] "Georgia shippers have been subjected to the payment of rates for interstate transportation which were then exacted, and still are, unjust and unreasonable, in violation of Section 1 of the Interstate Commerce Act; unjustly discriminatory, in violation of Section 2 of the said Act; and unjustly prejudicial to the interstate shipper and preferential in favor of the intrastate shipper, in violation of Section 3 of the Interstate Commerce Act." The said complaint also alleged that the intrastate rates in Florida were unduly prejudicial and disadvantageous to the interstate shipper in Georgia and caused undue, unreasonable and unjust discrimination against interstate commerce, and were in violation of Section 13 of the Interstate Commerce Act.

2

The said cause came to issue and a large number of persons, associations and partnerships intervened. It pro-

ceeded to report and order of this Commission, which report was promulgated on the 2nd day of August, 1928. Said report and order are published in the 146th I. C. C. 717, and are referred to. The said order became effective on the 8th day of February, 1929.

3

Thereafter three bills in equity were filed in the United States District Court for the Northern District of Georgia. One of them was filed by the State of Florida and the three members of the Florida Railroad Commission; another by Brooks-Scanlon Corporation, Wilson Cypress Company and Cummer Cypress Company; and the other by Wilson Lumber Company. These bills were all filed against the United States and the Interstate Commerce Commission. They proceeded to trial and the court ren- [fol. 1611] dered an opinion and judgment on the 17th day of January, 1929, reported in 30 Fed. (2d) 116, which opinion is referred to. The decree rendered in this cause dismissed the above mentioned bills but indicated that the application of the Commission's order was to be confined to northern Florida.

4

Thereafter the complainants in the above mentioned bills filed supplemental bills in the said court and hearing was had thereon and an opinion on the rehearing was rendered on March 22, 1929, reported in 31 Fed. (2d) 580, and is referred to, and a decree was entered on that opinion on April 22, 1929. The bills were dismissed and the Commission's order, as aforesaid, was sustained. Thereupon appeals were taken to the Supreme Court of the United States, which court on the 5th day of January, 1931, rendered its opinion, which opinion is referred to. The said opinion and the judgment entered thereon reversed the decrees of the United States District Court for the Northern District of Georgia, hereinbefore referred to. A part of the said opinion is as follows:

"The Commission made no findings as to the revenue which had been derived by the carrier from the traffic in question, or which could reasonably be expected under the increased rates, or that the alteration of the intrastate rates would produce, or was likely to produce, additional income

necessary to prevent an undue burden upon the carrier's interstate revenues and to maintain an adequate transportation service.

"The question is not merely one of the absence of elaboration or of a suitably complete statement of the grounds [fol. 1612] of the Commission's determination, to the importance of which this court has recently adverted (Beaumont, S. L. & W. R. Co. v. United States, decided November 24, 1930, 282 U. S. * * * ante, 41, 51 S. Ct. 1), but of the lack of the basic or essential findings required to support the Commission's order. In the absence of such findings, we are not called upon to examine the evidence in order to resolve opposing contentions as to what it shows or to spell out and state such conclusions of fact as it may permit. The Commission is the fact-finding body and the court examines the evidence not to make findings for the Commission but to ascertain whether its findings are properly supported. If the facts as to intrastate transportation of logs in Florida are such as to justify an order as to intrastate rates in order to end an unjust discrimination as against interstate commerce either as between persons and localities, or because of an undue burden upon the revenues of the carrier, the Interstate Commerce Commission is still at liberty, acting in accordance with the authority conferred by the statute, to make such determinations as the situation may require.

"We conclude that the portion of the order of the Commission which is now under review, with respect to intrastate rates, is not supported by the findings of the Commission and this part of the order must be set aside."

5

Complainant respectfully moves this Commission to reopen the said cause and to proceed in the manner prescribed by law and the rules of this Commission to make the determinations required by the situation and to issue such report and to make such findings and orders as will result in removing the discriminations set out in the original petition. [fol. 1613] Wherefore, complainant prays:

(a) That the Atlantic Coast Line Railroad Company, and all of the persons, associations, partnerships or corporations who have intervened in this cause, be given notice of this motion; that the State of Florida be notified thereof;

that this Commission proceed to make such further findings and to issue such further reports and orders in this cause as it may deem to be requisite or necessary to fully accomplish the purposes of the original petition and of this motion.

(b) That this Commission prescribe just, reasonable, non-discriminatory and non-prejudicial interstate rates to be observed and charged by the defendant carrier for the transportation of carload shipments of logs, from all points located in the State of Florida to all destinations located in the State of Georgia; that the measure of said rates be no higher than the rates concurrently in effect for the same kind of property, from producing points located within the State of Florida, moving in intrastate commerce, to destinations within the State of Florida.

(c) That this Commission issue such other and further reports, findings and orders as this Commission may deem proper, to the end that the discrimination referred to in the original complaint be removed and remedied.

Respectfully submitted, Georgia Public Service Commission, by James A. Perry, Chairman.

[fols. 1614 & 1615] GEORGIA,
Fulton County:

Before me, the undersigned officer, duly authorized to administer oaths in said State and County, personally appeared Jas. A. Perry, who being by me duly sworn deposeth and saith on oath that he is Chairman of the Georgia Public Service Commission; that the statements contained in the foregoing motion are true, except when stated upon information and belief or as matters of opinion, and then he verily believes them to be true.

James A. Perry.

Sworn to and subscribed before me, this 2nd day of March, 1931. Ellen Douglass, Notary Public, Georgia, State at Large. (Seal.)

[fol. 1616] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted]

ANSWER OF BROOKS-SCANLON CORPORATION, WILSON CYPRESS COMPANY, AND CUMMER CYPRESS COMPANY, INTERVENERS, TO MOTIONS OF ATLANTIC COAST LINE RAILROAD COMPANY, DEFENDANT, AND GEORGIA PUBLIC SERVICE COMMISSION, COMPLAINANT, TO REOPEN REPORT AND ORDER HEREIN—March 27, 1931

Come now Brooks-Scanlon Corporation, Wilson Cypress Company and Cummer Cypress Company, interveners before the Commission upon the original proceedings herein, and respectfully file this their answer to motions filed by defendant Atlantic Coast Line Railroad Company and complainant Georgia Public Service Conimission, praying that the Commission reopen its report and order herein.

[fol. 1617] For answer to the petition of defendant Atlantic Coast Line Railroad Company these interveners respectfully state as follows:

I

Answering Paragaphs 1 and 2.—While complainant Georgia Public Serivce Commission in its complaint filed May 3, 1926, alleged violations of Sections 1, 2, 3 and 13 of the interstate commerce act, the real object of its complaint was as stated in paragraph 3 thereof as follows:

"3. That the object of the complaint is to secure reasonable rates on logs from all points on the Atlantic Coast Line Railroad, as hereinafter shown within the state of Florida to all destinations on the said Atlantic Coast Line Railroad in the State of Georgia, and to have removed any unjust discrimination or undue prejudice found to exist as provided in the Interstate Commerce Act."

Further, complainant Georgia Public Service Commission in the course of the hearings before the Commission by its witness and by its attorney stated that the Florida intrastate rates should—

"be extended into Georgia for interstate application" and "that is all there is in the case, it is all that has ever been

in the case, it is all we are asking for and all we hope to gain." (Transcript, pp. 36, 57.)

Further answering, interveners say that defendant Atlantic Coast Line Railroad Company in answering said [fol. 1618] complaint of the Georgia Public Service Commission denied that there was any violation of the interstate commerce act and prayed for the dismissal of the complaint.

II

Answering Paragraph 3.—The order of the Commission herein did not accomplish the aim of the Georgia Public Service Commission. Instead it prescribed a level of interstate rates from North Florida to Georgia which was but slightly less than the interstate rates attacked and alleged by complainant Georgia Public Service Commission to be too high to permit logs to move from Florida to Georgia in interstate commerce.

Further answering, the attention of the Commission is directed to the fact that the Motion of the Atlantic Coast Line Railroad Company prays that the Commission now prescribe such intrastate rates in Florida "as may be lawful," whereas the Motion of the Georgia Public Service Commission prays that this Commission now prescribe "just, reasonable, non-discriminatory and non-prejudicial interstate rates"; that it thus appears that the Movants are pursuing different aims; that the Atlantic Coast Line Railroad Company neither in its answer to the original complaint herein, nor at any time since has admitted that its intrastate Florida rates were unlawful or prayed that their reasonableness be fixed by this Commission; and that the interstate rates on logs from North Florida to Georgia have already been fixed by this Commission pursuant to the petition of the Georgia Public Service Commission, and that no contention has ever been made by the Georgia Pub- [fol. 1619] lic Service Commission that said action of this Commission was in any respect unlawful.

III

Answering Paragraph 4.—Interveners admit the allegations of this paragraph but state further that upon their original bills seeking to enjoin the statewide order of the Interstate Commerce Commission, the District Court found that such order could probably not be justified as a state-

wide order. State of Florida v. United States, 30 Fed. (2d) 116.

IV

Answering Paragraphs 5 and 6.—Interveners respectfully state that in the hearing upon their supplemental bills of complaint, the District Court reversing its former opinion in that respect, held that—

"We cannot say the order is without evidence to sustain it, on the ground that the former state rate was an undue discrimination against general interstate commerce over the Coast Line Railroads,"—

and upheld the order as an order made to remove a—

"discrimination against *general* interstate commerce, when one state rate or the system of state rates is so low as to throw an undue burden on the revenues arising from interstate commerce in order to sustain the carrier engaged in both kinds of commerce." State of Florida v. United States, 31 Fed. (2d) 580.

Further answering, these interveners respectfully submit that the Supreme Court of the United States upon the [fol. 1620] appeal of the decree of the District Court, expressly reviewed at length the evidence before the Commission on the revenue aspect of the case and clearly indicated that such evidence was not sufficient to justify a Section 13 order statewide in its scope; and further, the Supreme Court expressly stated, after reviewing this evidence that:

"The Commission made no findings as to the revenue which had been derived from the traffic in question, or which could reasonably be expected under the increased rates, or that the alteration of the intrastate rates would produce, or was likely to produce, additional income necessary to prevent an undue burden upon the carrier's interstate revenues and to maintain an adequate transportation service." Florida v. United States, Adv. Ops., October Term, 1930, p. 212, 220-221.

Further answering, interveners respectfully submit that there is no evidence of record in this proceeding upon which the Commission could make a state-wide order rais-

ing all the rates on logs applicable on the Atlantic Coast Line Railroad Company for hauls up to 170 miles within and throughout the entire State of Florida without exception.

V

Answering Paragraph 7.—These interveners state that the Railroad Commission of Florida has taken such action as it deems to be necessary to maintain the integrity of the lawful state rates applicable to the transportation of logs within and throughout the State of Florida which lawful state rates were dis-established only by the unlawful order [fol. 1621] of this Commission, which the Supreme Court of the United States has found must be set aside and which it has directed the District Court for the Northern District of Georgia, Atlanta Division, to set aside in its mandate directed to said District Court.

Further answering this paragraph, interveners respectfully refer to what has been said above to the effect that there is no evidence before the Commission in this proceeding which will justify a Section 13 order as sought by the petitioners.

VI

Answering Paragraph 8.—These interveners admit that they, with others, have filed their motions in the District Court for the Northern District of Georgia, Atlanta Division, asking that the mandate of the Supreme Court of the United States be complied with and that the unlawful order of this Commission herein be set aside, and in that respect interveners state that said District Court, as of March 7, 1931, has entered its decree setting aside such order of the Commission in this proceeding.

Further answering, these interveners admit that they with others have moved that said District Court for the Northern District of Georgia, Atlanta Division, order the Atlantic Coast Line Railroad Company to make restitution to them of sums unlawfully exacted from them for the transportation of logs because of the erroneous decree of said District Court which dismissed the Bills and Supplemental Bills praying for an injunction against the unlawful order of this Commission prescribing rates on logs within and throughout the State of Florida without exception on

[fol. 1622] the lines of the Atlantic Coast Line Railroad Company.

Further answering, these interveners respectfully state that despite the fact that large sums are thus due them by way of restitution, there was a material decline in the intrastate shipment of logs over the lines of the Atlantic Coast Line Railroad Company in Florida during the period when the unlawful rates prescribed by this Commission were collected.

Further answering, and particularly with respect to this Commission's previous finding that there was no interstate commerce in logs from Florida to Georgia, these interveners respectfully state that they are reliably informed, and believe, and therefore aver, that no intrastate commerce in logs has developed on the rates prescribed by this Commission herein for the interstate transportation of logs from Florida to destinations in Georgia, which rates were in force and effect from February 8, 1929, to March 7, 1930; and that there is not now and will not be any interstate commerce in logs from Florida to Georgia on such rates.

* * * * * * * *

For answer to the Motion of the Complainant Georgia Public Service Commission, these interveners respectfully state as follows:

VII

For answer to Paragraph 1, reference is made to Paragraph I above.

The allegations of Paragraph 2 are admitted, and further answering, reference is made to Paragraph II above. [fol. 1623] For answer to Paragraph 3, reference is made to Paragraph III above.

For answer to Paragraph 4, reference is made to Paragraph IV above.

For answer to Paragraph 5, reference is made to Paragraph V above.

* * * * * * * *

IX

Further by way of answer to both Motions, these interveners respectfully represent:—

That the complaint in this proceeding was filed May 3, 1926, almost five years ago; the ancient character of the proceedings before the Commission is accentuated by the fact that in the intervening years great economic changes have taken place throughout the entire United States, and that there has been a material change in the situation of the parties to the proceedings;

That meanwhile the unlawful order of this Commission, which the Supreme Court condemned, took effect February 8, 1929, more than two years ago, and was not finally set aside until March 7, 1931. In the intervening two years and more, mills and property valued at millions of dollars have been dismantled and destroyed, and prosperous communities have been wiped out, with no compensating advantage accruing to anyone;

That such log shippers as have continued to ship during these two years and more have been overcharged several hundred thousands of dollars by the Atlantic Coast Line Railroad Company, and said carrier is now resisting in [fol. 1624] every possible way the restitution of such unlawfully exacted monies, and the reinstatement of the lawful state rates upon log traffic.

That the decision of the Supreme Court of the United States which found the order of the Commission unlawful and directed that it be set aside, reviewed at length the evidence upon which the lower Court relied to sustain the order of the Commission and clearly indicated that the evidence of record is insufficient to justify the order;

That said decision finally disposed of the unlawful report and order of the Commission herein, and of the proceedings upon which it was based; and that said decision not only condemned said report and order as containing insufficient findings, but also examined all of the evidence recited in the report of the Commission and found such evidence insufficient to warrant the invasion of the domain of the State;

That the Supreme Court in said decision found in terms that "the authority to determine the reasonableness per se of the intrastate rates lay with the State authorities and not with the Interstate Commerce Commission"; that the State rates on logs were voluntarily established by the Atlantic Coast Line Railroad Company; and that neither said carrier nor anyone else has ever appealed to the Railroad

Commission of Florida to determine the reasonableness per se of said state rates on logs;

Finally, that there is no necessity for, nor obligation upon, this Commission to reopen this cause or to proceed therein to make additional findings and orders upon evidence of such antiquity as to be valueless; and that the opinion and decree of the Supreme Court of the United [fols. 1625 & 1626] States, the law of this case, and the comity and courtesy due by a Federal administrative body to a sovereign state require that the Motions of the Atlantic Coast Line Railroad Company and of the Georgia Public Service Commission be denied.

For all of which these interveners respectfully pray that the petitions of defendant Atlantic Coast Line Railroad Company and complainant Georgia Public Service Commission that this Commission reopen its report and order herein, be denied.

Respectfully submitted, H. P. Adair, Atlantic Natl. Bank Bldg., Jacksonville, Florida. C. E. Cotterill, Grant Bldg., Atlanta, Ga. August G. Gutheim, 712 Jackson Place, Washington, D. C.

March 27, 1931.

[fol. 1627] BEFORE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 18364

[Title omitted]

ANSWER AND REPLY OF STATE OF FLORIDA AND FLORIDA RAILROAD COMMISSION TO MOTION TO REOPEN REPORT AND ORDER FILED BY GEORGIA PUBLIC SERVICE COMMISSION AND BY ATLANTIC COAST LINE RAILROAD COMPANY—March 27, 1931

Now comes the State of Florida by Cary D. Landis, its Attorney General, and the Railroad Commissioners of the State of Florida by Theo. T. Turnbull, Special Counsel, designated by them, and for answer and reply to the Motions of the Georgia Public Service Commission and the Atlantic Coast Line Railroad Company to Reopen the Report and Order in the above mentioned cause, say:

[fol. 1628] I

That the primary issue before this Commission in the original case was the interstate rate; the intrastate rate was involved only incidentally in its relationship to the interstate rate.

The interstate rates were fixed by the Commission and were not set aside by the Supreme Court of the United States. Therefore, the Georgia Public Service Commission, complainant in this case, has secured all that it asked for in its original complaint.

II

That the Motion on the part of the Atlantic Coast Line Railroad Company contains the following prayer:

"(b) That this Commission prescribe such intrastate rates in Florida for the transportation of logs over the lines of this movant, for distances up to one hundred and seventy (170) miles, and for distances beyond said one hundred and seventy (170) miles as may be lawful."

That this prayer broadens the issues in this case and it would be impossible under the evidence heretofore submitted to this Commission to grant the relief prayed.

That the opinion and decision of the Supreme Court of the United States finally disposed of the order of the Interstate Commerce Commission and all the proceedings upon which it was based. The Supreme Court of the United States not only condemned the order of the Interstate Commerce Commission as containing an insufficient finding [fol. 1629] upon which to supersede State authority but it also examined all of the matters of evidence which were recited in the report of the Interstate Commerce Commission. And having examined the several classes of evidence relied upon by the Commission in its report, that Court found that none of them were sufficient to warrant the invasion of the domain of the State. There was and is no evidence or class of evidence upon which this Commission could rely except that recited in its report and referred to in the opinion of the District Court, and that was the evidence which was considered and condemned by the Supreme Court of the United States.

III

That the State of Florida respectfully shows that the evidence upon which the unlawful order of the Interstate Commerce Commission was entered is now more than four years old and that this Commission is bound to take knowledge of the great economic changes that have taken place since that evidence was closed. And that it would be contrary to all the rules of law for this Commission upon this ancient record to attempt to invade the domain of the State either under Section 3, or Section 13. That this order took effect on February 8, 1929, and as a result of that order mills and property valued at millions of dollars have been dismantled and destroyed and prosperous communities have been wiped out with no compensating advantages accruing to anyone, and in addition to this, as a result of said order, the revenues of the carrier from the transportation of logs has been reduced by several hundreds of thousands of dollars per year.

[fol. 1630] IV

That the Supreme Court of the United States in the Florida Log Case found in effect that the so-called Cummer scale of rates having been voluntarily established by the Atlantic Coast Line Railroad Company, the defendant herein, became and are the lawful state rates and were and are maintained in intrastate commerce subject to the authority of said state.

That said Court likewise found in said opinion that the authority to determine the reasonableness per se of said state rates lies with the State authorities and not with the Interstate Commerce Commission.

That the laws of the State of Florida and the rules and regulations duly adopted by the Florida Railroad Commission require that before any state rate lawfully established shall be advanced, increased, discontinued, or changed, consent and approval thereof shall be had from the Florida Commission after notice given and a hearing had by said Florida Commission.

That said Cummer scale has been in force and effect for more than fifteen years last past and that said Atlantic Coast Line Railroad Company has never applied to said Florida Commission or sought the permission of said

Florida Commission to establish between points on its lines in the State of Florida any scale of rates for the transportation of logs other than said Cummer scale, or for leave to change, alter, modify, discontinue, or increase the said Cummer scale of rates.

That the lawful state authority referred to in said opinion of said Supreme Court, to-wit, the authority of the Florida Commission has never been invoked by said carrier [fol. 1631] or by the Georgia Public Service Commission, the complainant herein, with respect to the level of said Cummer scale of rates.

That until such state authority has been invoked with respect to the level of said Cummer scale of rates, Federal authority ought not to be exercised even if there be power to exercise it, which these interveners deny.

That the provisions of the Interstate Commerce Act do not deprive the Interstate Commerce Commission of power to refuse to exercise its discretion to entertain a petition for an investigation of intrastate rates until proper effort has been made to secure relief from a State regulatory body having primary jurisdiction to grant such relief.

V

That the Florida Railroad Commission is ready and willing at any proper time to consider, hear, and determine, after giving notice to interested parties and affording them an opportunity to be heard, any application which shall hereafter be made by the Atlantic Coast Line Railroad Company or by any other party interested with respect to the level of the lawful intrastate rates thereafter to be applied for the transportation of logs in intrastate commerce between points on the lines of the Atlantic Coast Line Railroad Company in Florida.

VI

The State of Florida further shows that this Commission found in its report that there was no interstate traffic in logs but found that the evidence was not convincing that [fol. 1632] there would not be interstate traffic if the interstate rate and the intrastate rate were equal. The order of this Commission has been in force and effect for two years and during those two years no interstate commerce in logs has developed and none will develop.

Wherefore it is submitted on the part of the State of Florida that the opinion and decree of the Supreme Court of the United States, which is now the law in this case, and that comity and courtesy which this Commission has always shown to a sovereign State requires that the Motion of the Georgia Public Service Commission and the Atlantic Coast Line Railroad Company be denied.

Respectfully submitted, State of Florida, by Cary D. Landis, Attorney General. Florida Railroad Commission, by Theo. T. Turnbull, Special Counsel.

Tallahassee, Fla., March 27, 1931.

[fol. 1633] BEFORE INTERSTATE COMMERCE COMMISSION

No. 18364

[Title omitted]

ORDER REOPENING PROCEEDING—April 6, 1931

Upon consideration of motions filed by complainant and defendant to reopen the above-entitled proceeding and of replies to said motions filed by the State of Florida, Florida Railroad Commission, and interveners, Brooks-Scanlon Corporation, Wilson Cypress Company and Cummer Cypress Company:

It is ordered, That said proceeding be, and it is hereby reopened for further hearing.

It is further ordered, That said proceeding is assigned for such further hearing May 4, 1931, at 10 o'clock A. M. Standard Time, at the Mayflower Hotel, Jacksonville, Florida, before Examiner Hoy.

By the Commission.

George B. McGinty, Secretary. (Seal.)

[fol. 1634] BEFORE INTERSTATE COMMERCE COMMISSION, WASHINGTON

No. 18364

[Title omitted]

ORDER REASSIGNING CAUSE—April 21, 1931

Hearing in the above-entitled case, now assigned for May 4, 1931, at the Mayflower Hotel, Jacksonville, Florida, before Examiner Hoy, is hereby cancelled, and this case is re-assigned for further hearing on June 10, 1931, at nine o'clock, A. M. (Standard Time), at the Mayflower Hotel, Jacksonville, Florida, before Examiner Hoy.

By the Commission.

George B. McGinty, Secretary.

[fols. 1635-2028] BEFORE INTERSTATE COMMERCE COMMISSION

No. 18364

[Title omitted]

ORDER ALLOWING INTERVENTION—April 28, 1931

Upon further consideration of the record in the above-entitled proceeding, and for good cause shown:

It is ordered, That the order heretofore entered in said proceeding on November 1, 1928, be, and it is hereby, set aside in so far as it denied the petition of the Wilson Lumber Company of Florida for leave to intervene in said proceeding.

It is further ordered, That the said Wilson Lumber Company of Florida be and it is hereby, permitted to intervene and be treated as a party to said proceeding, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervener to introduce evi-

dence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission.

George B. McGinty, Secretary. (Seal.)

(Here follow Exhibits 54 and 55, side folios 2029-2031)

Statement Showing in Cents per 100 Pounds Comparison of the So-Called Cummer Log Scale wit
and (2) with Net Transit Log Rates Operated by Ce

Description and Appl

	A	B	C	D	E	F	G
	Log Scales Applicable on Interstate Traffic within Mississippi Valley						
Distances in Miles	So-called Cummer Log Scale	St. L. & S. F. Railway Net transit	Illinois Central Railroad		Mobile and Ohio Railroad		Gulf, M Northern
			Local	Net transit	Local	Net transit	Local
5	1.71	2½	3½	2	4½	2	4½
10	1.71	2½	3½	2	4½	2	4½
15	1.71	2½	4½	2	6	2	6
20	1.71	2½	5	2½	6	2½	6
25	1.71	2½	6	2½	7	2½	7
30	1.71	3½	6	2½	7	2½	7
35	1.71	3½	6½	3½	7	3½	8
40	1.71	3½	7	3½	8½	3½	9
45	2.1	3½	8	4	8½	4	9
50	2.1	3½	8½	4½	8½	4½	9
55	2.1	4½	8½	4½	8½	4½	9
60	2.1	4½	8½	5	8½	5	9
65	2.3	4½	9	5	8½	5	9
70	2.3	4½	9	5	8½	5	9
75	2.3	4½	10½	6	8½	6	9
80	2.3	5	10½	6	8½	6	9
85	2.3	5	10½	6	8½	6	9
90	2.3	5	10½	6½	10½	6½	11
95	2.6	5	11	6½	10½	6½	11
100	2.6	5	11	6½	10½	6½	11
105	2.8	6	11	6½	10½	6½	11
110	2.8	6	11	6½	10½	6½	11
115	3.2	6	11	6½	10½	6½	11
120	3.2	6	11	6½	10½	6½	11
125	3.2	6	11½	7	10½	7	11
130	3.2	6½	11½	7	10½	7	11
135	3.4	6½	11½	7	10½	7	11
140	3.4	6½	11½	7	10½	7	11
145	3.4	6½	11½	7	11½	7	11½
150	3.4	6½	11½	7	11½	7	11½
155	3.4	7	11½	7	11½	7	11½
160	3.4	7	11½	7	11½	7	11½
165	3.7	7	12½	8	11½	8	11½
170	3.7	7	12½	8	11½	8	11½

[fol. 2030]

Description and Application

A—Logs, carloads, except Cedar logs. Per car 50,000 pounds, excess in proportion. To be loa
between Atlantic Coast Line Railroad stations in Florida for distances 170 miles and less.

B—Applies on rough material, carloads, including logs minimum weight 40,000 pounds, betwee
stacking, creosoting or further manufacture and re-shipment via the St. L. & S. F. Ry.

C—Applies on logs (except Walnut, Cherry and Cedar) carloads, minimum weight 40,000 pou
and Henderson Districts, and other Illinois Central Railroad Stations in Tennessee and Kentucky.

D—Applies on rough material, carloads, including logs, (except Cedar, Cherry, Pine and Walnu

cket No. 18364

J. W. Perrin

6/10/31.

with (1) Local Rates of Lines Operating Within Southeastern and Mississippi Valley Territories
Certain Mississippi Valley and Southeastern Lines

Application of Scales

H	I	J	K	L	M	N	O
Valley Territory	Log Scales Applicable within Southeastern Territory						
lf, Mobile and thern Railroad	Atlantic Coast Line R. R.	Southern Railway	C. C. & O. Railway	N. C. & St. L. Railway	Louisville & Nashville Railroad		Seaboard Air Line Railway
Reshipping rates	Local	Local	Local	Local	Local	Net transit	Local
2	2½	2½	2.6	2½	4½	2½	2½
2	2½	2½	2.6	3½	4½	2½	2½
2	3	3	2.8	3½	6	3	3
2½	3	3	2.8	4	11	3	3
2½	3½	3½	3¼	4	7	3½	3½
3½	3½	3½	3¼	4½	8½	3½	3½
3½	4	4	3½	4½	8½	4	4
3½	4	4	3½	4½	8½	4	4
3½	4½	4½	4	5	10½	4½	4½
3½	4½	4½	4	5	10½	4½	4½
4½	4½	4½	4¼	6	10½	4½	4½
4½	5	5	4¼	6	11½	5	5
4½	5	5	4.6	6	11½	5	5
4½	5	5	4.6	6½	11½	5	5
....	5½	5½	5	6½	11½	5½	5½
....	5½	5½	5	7	11½	5½	5½
....	5½	5½	5.3	7	11½	5½	5½
....	6	6	5.3	7	11½	6	6
....	6	6	5.3	7	11½	6	6
....	6	6	5.6	7	11½	6	6
....	6½	6½	6.1	8	11½	6½	6½
....	6½	6½	6.1	8	11½	6½	6½
....	6½	6½	6.2	8½	11½	6½	6½
....	6½	6½	6.2	8½	11½	6½	6½
....	7	7	7.1	8½	11½	7	7
....	7	7	7.1	9	11½	7	7
....	7	7	7.3	9	11½	7	7
....	7	7	7.3	9½	11½	7	7
2	7½	7½	7.3	9½	11½	7½	7½
2	7½	7½	7.3	10½	11½	7½	7½
2	7½	7½	7¾	10½	11½	7½	7½
2	7½	7½	7¾	10½	11½	7½	7½
2	8	8	8½	11	11½	8	8
2	8	8	8¼	11	11½	8	8

ation of Scales

loaded and unloaded by owner and not to be unloaded on the Railroad's right of way. Applies

tween points on the St. L. & S. F. Ry. in Alabama, Florida, and Mississippi, when for dressing,

pounds between points on the Illinois Central Railroad, on the Louisville, Paducah, Ownesboro

y.

alnut and certain Foreign woods), carload minimum weight 40,000 pounds from I. C. R. R. and

B—Applies on rough material, carloads, including logs minimum weight 40,00
stacking, creosoting or further manufacture and re-shipment via the St. L. & S. F.

C—Applies on logs (except Walnut, Cherry and Cedar) carloads, minimum w
and Henderson Districts, and other Illinois Central Railroad Stations in Tennessee

D—Applies on rough material, carloads, including logs, (except Cedar, Cherry,
Y. & M. V. R. R. stations to Memphis, Tenn., for manufacture and re-shipment vi

E—Logs, all kinds (except Mahogany, Cedar, Cherry and Walnut) carloads, m

F—Applies on rough material, carloads, including logs (except Cedar and Che
re-shipment via the Mobile and Ohio Railroad.

G—Same description as "E." Applies between stations on the Gulf, Mobile a

H—Applies on logs, pine, gum, oak, hickory and poplar, carloads, minimum
(Applicable only on shipments loaded in privately owned equipment.)

I—Logs (except Cedar, Cherry, Mahogany and Walnut), carloads, minimum we
between Florida Peninsula points and interstate points, and also on intrastate traffi

J—Logs, native wood, Canadian wood or Mexican Pine, carload, minimum wei

K—Logs (except, Walnut, Cherry or Cedar) in the rough, C. L. in cents per c
tween points on the Clinchfield Railroad and Erwin, Fordtown, Gray, Johnson City

L—Logs, other than Walnut, Cherry or Cedar, carload minimum weight 30,00

M—Logs (except Cherry and Walnut), carloads, minimum weight 30,000 pou
stations to Decatur, Alabama and the rates shown are from points where distances,

N—Rates apply on rough material including logs, carloads (except certain foreig
N. R. R.

O—Logs (native wood, Canadian wood, or Mexican Pine) carload, minimum w

St. L. & S. F. Ry., I. C. C. No. 9019.
I. C. R. R., I. C. C. Nos. 7236 and 7351.
M. & O. R. R., I. C. C. Nos. B-796 and B-754.
G. M. & N. R. R., I. C. C. No. 1058.
A. C. L. R. R., I. C. C. No. B-2512.
Sou. Ry., I. C. C. No. A-10159.

Wilmington, N. C., June 3, 1931.

40,000 pounds, between points on the St. L. & S. F. Ry. in Alabama, Florida, and Mississippi, when for dressing, S. F. Ry.

im weight 40,000 pounds between points on the Illinois Central Railroad, on the Louisville, Paducah, Ownesboro essee and Kentucky.

herry, Pine and Walnut and certain Foreign woods), carload minimum weight 40,000 pounds from I. C. R. R. and nt via the I. C. R. R. or the Y. & M. V. R. R.

ds, minimum weight 40,000 pounds. Applies between points on the Mobile & Ohio Railroad on interstate traffic. Cherry and certain Foreign woods), between points on the Mobile and Ohio Railroad, when for manufacture and

bile and Northern Railroad on interstate traffic.

num weig 40,000 pounds. To be manufactured at Laurel, Miss. and products reshipped via G. M. & N. R. R.

um weight 40,000 pounds. Applies on interstate traffic between points on the Atlantic Coast Line Railroad, except traffic between points in Alabama and Virginia.

n weight 40,000 pounds. Applies on interstate traffic between Southern Railway System Lines.

per car of 40,000 pounds, excess in proportion. (Rates have been reduced to cents per 100 pounds). Applies be- City and/or Kingsport, Tenn.

0,000 pounds Applies between points on the N. C. & St. L. Railway.

pounds. The rates are not published in the form of a scale, but as specific rates from L. & N. R. R. Alabama nces to Decatur, Alabama corresponds with distances shown at left.

oreign woods), from L. & N. R. R. stations to points on L. & N. R. R. for manufacture and re-shipment via L. &

um weight 40,000 pounds. Applies interstate between points on the Seaboard Air Line Railway.

Tariff Authorities

Clinchfield Ry., I. C. C. No. 75.
N. C. & St. L. Ry., I. C. C. No. 2986-A.
Agent J. H. Glenn's I. C. C. Nos. A-659, A-756, A-531 and A-757.
L. & N. R. R., I. C. C. Nos. A-16022 and A-15992.
S. A. L. Ry., I. C. C. No. A-7528.

[fol. 2031]

Statement Showing Comparison of Freight Charges Accruing
Gainesville, and Palatka, Florida, and at A. C. L. R. R. S
Comparison Weight of 150,000 Pounds of Logs Has Been

Destinations			Jacksonville, Florida					Loughman, and Gr		
			Logs, Cl, 150,000 Lbs.		Lumber, Cl, 50,000 Lbs.			Logs, Cl, 150,000 Lbs.		Lu 50
			Rate	Revenue	Rate	Revenue	Total	Rate	Revenue	Rate
Portland, Me.										
Boston, Mass.										
Inbound	Miles	25	1.71	$25.65	45	$225.00	$250.65	1.71	$25.65	48
(Logs)	"	50	2.1	31.50	45	225.00	258.50	2.1	31.50	48
	"	75	2.3	34.50	45	225.00	259.50	2.3	34.50	48
	"	100	2.6	39.00	45	225.00	264.00	2.6	39.00	48
	"	150	3.4	51.00	45	225.00	276.00	3.4	51.00	48
Jersey City, N. J.										
Inbound	Miles	25	1.71	25.65	39½	197.50	223.15	1.71	25.65	42½
(Logs)	"	50	2.1	31.50	39½	197.50	229.00	2.1	31.50	42½
	"	75	2.3	34.50	39½	197.50	232.00	2.3	34.50	42½
	"	100	2.6	39.00	39½	197.50	236.50	2.6	39.00	42½
	"	150	3.4	51.00	39½	197.50	248.50	3.4	51.00	42½
Philadelphia, Pa.										
Inbound	Miles	25	1.71	25.65	36	180.00	205.65	1.71	25.65	39
(Logs)	"	50	2.1	31.50	36	180.00	211.50	2.1	31.50	39
	"	75	2.3	34.50	36	180.00	214.50	2.3	34.50	39
	"	100	2.6	39.00	36	180.00	219.00	2.6	39.00	39
	"	150	3.4	51.00	36	180.00	231.00	3.4	51.00	39
Baltimore, Md.										
Washington, D. C.										
Inbound	Miles	25	1.71	25.65	35	175.00	200.65	1.71	25.65	38
(Logs)	"	50	2.1	31.50	35	175.00	206.50	2.1	31.50	38
	"	75	2.3	34.50	35	175.00	209.50	2.3	34.50	38
	"	100	2.6	39.00	35	175.00	214.00	2.6	39.00	38
	"	150	3.4	51.00	35	175.00	226.00	3.4	51.00	38

Age
Age
A. C

Wilmington, N. C., June 2, 1931.

DEFENDANTS' EXHIBIT NO. 55

Witness: J. W. Perrin

Before Interstate Commerce Commission

I. C. C. Docket No. 18364

ruing on Shipments of Logs from A. C. L. R. R. Stations in Florida Milled at Jacksonville, Loughman, C
R. Stations in South Georgia and on Lumber from Such Points to Representative Eastern Destinations
Been Used for Each 50,000 Pounds of Lumber)

Mill Points

											A. C
										Interstate from A. C. I Florida Stations and P from Georgia	
nd Groveland, Florida			Perry, Gainesville, and Palatka, Florida					Logs, Cl, 150,000 Lbs.		Lum 50,0	
Lumber, Cl, 50,000 Lbs.			Logs, Cl, 150,000 Lbs.		Lumber, Cl, 50,000 Lbs.						
Rate	Revenue	Total	Rate	Revenue	Rate	Revenue	Total	Rate	Revenue	Rate	
48	$240.00	$265.65	1.71	$25.65	46	$230.00	$255.65	3.5	52.50	45	
48	240.00	271.50	2.1	31.50	46	230.00	261.50	4.5	67.50	45	
48	240.00	274.50	2.3	34.50	46	230.00	264.50	5.5	82.50	45	
48	240.00	279.00	2.6	39.00	46	230.00	269.00	6	90.00	45	
48	240.00	291.00	3.4	51.00	46	230.00	281.00	7.5	112.50	45	
42½	212.50	238.15	1.71	25.65	40½	202.50	228.15	3.5	52.50	39½	
42½	212.50	244.00	2.1	31.50	40½	202.50	234.00	4.5	67.50	39½	
42½	212.50	247.00	2.3	34.50	40½	202.50	237.00	5.5	82.50	39½	
42½	212.50	251.50	2.6	39.00	40½	202.50	241.50	6	90.00	39½	
42½	212.50	263.50	3.4	51.00	40½	202.50	253.50	7.5	112.50	39½	
39	195.00	220.65	1.71	25.65	37	185.00	210.65	3.5	52.50	36	
39	195.00	226.50	2.1	31.50	37	185.00	216.50	4.5	67.50	36	
39	195.00	229.50	2.3	34.50	37	185.00	219.50	5.5	82.50	36	
39	195.00	234.00	2.6	39.00	37	185.00	224.00	6	90.00	36	
39	195.00	246.00	3.4	51.00	37	185.00	236.00	7.5	112.50	36	
38	190.00	215.65	1.71	25.65	36	180.00	205.65	3.5	52.50	35	
38	190.00	221.50	2.1	31.50	36	180.00	211.50	4.5	67.50	35	
38	190.00	224.50	2.3	34.50	36	180.00	214.50	5.5	82.50	35	
38	190.00	229.50	2.6	39.00	36	180.00	219.00	6	90.00	35	
38	190.00	241.00	3.4	51.00	36	180.00	231.00	7.5	112.50	35	

Tariff Authorities

Agent J. H. Glenn's Eastern Lumber Tariff, I. C. C. No. A-604.
Agent J. H. Glenn's Southern Lumber Tariff, I. C. C. No. A-659.
A. C. L. R. R. Florida Local Tariff, I. C. C. No. B-2632.

DEFENDANTS' EXHIBIT No. 55

Witness: J. W. Perrin

Before Interstate Commerce Commission

I. C. C. Docket No. 18364

wing Comparison of Freight Charges Accruing on Shipments of Logs from A. C. L. R. R. Station and Palatka, Florida, and at A. C. L. R. R. Stations in South Georgia and on Lumber from Such Weight of 150,000 Pounds of Logs Has Been Used for Each 50,000 Pounds of Lumber)

Mill Points

Florida		Loughman and Groveland, Florida				Perry, Gainesville, and		
ber, Cl, 0 Lbs.		Logs, Cl, 150,000 Lbs.		Lumber, Cl, 50,000 Lbs.		Logs, Cl, 150,000 Lbs.		Lum 50,0
Revenue	Total	Rate	Revenue	Rate	Revenue	Total	Rate	Revenue	Rate
$225.00	$250.65	1.71	$25.65	48	$240.00	$265.65	1.71	$25.65	46
225.00	258.50	2.1	31.50	48	240.00	271.50	2.1	31.50	46
225.00	259.50	2.3	34.50	48	240.00	274.50	2.3	34.50	46
225.00	264.00	2.6	39.00	48	240.00	279.00	2.6	39.00	46
225.00	276.00	3.4	51.00	48	240.00	291.00	3.4	51.00	46
197.50	223.15	1.71	25.65	42½	212.50	238.15	1.71	25.65	40½
197.50	229.00	2.1	31.50	42½	212.50	244.00	2.1	31.50	40½
197.50	232.00	2.3	34.50	42½	212.50	247.00	2.3	34.50	40½
197.50	236.50	2.6	39.00	42½	212.50	251.50	2.6	39.00	40½
197.50	248.50	3.4	51.00	42½	212.50	363.50	3.4	51.00	40½
180.00	205.65	1.71	25.65	39	195.00	220.65	1.71	25.65	37
180.00	211.50	2.1	31.50	39	195.00	226.50	2.1	31.50	37
180.00	214.50	2.3	34.50	39	195.00	229.50	2.3	34.50	37
180.00	219.00	2.6	39.00	39	195.00	234.00	2.6	39.00	37
180.00	231.00	3.4	51.00	39	195.00	246.00	3.4	51.00	37
175.00	200.65	1.71	25.65	38	190.00	215.65	1.71	25.65	36
175.00	206.50	2.1	31.50	38	190.00	221.50	2.1	31.50	36
175.00	209.50	2.3	34.50	38	190.00	224.50	2.3	34.50	36
175.00	214.00	2.6	39.00	38	190.00	229.50	2.6	39.00	36
175.00	226.00	3.4	51.00	38	190.00	241.00	3.4	51.00	36

Tariff Authorities

Agent J. H. Glenn's Eastern Lumber Tariff, I. C. C. N
Agent J. H. Glenn's Southern Lumber Tariff, I. C. C.
A. C. L. R. R. Florida Local Tariff, I. C. C. No. B-26

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tations in Florida Milled at Jacksonville, Loughman, Groveland, Perry,
n Such Points to Representative Eastern Destinations (in Making This

A. C. L. R. R. Stations in South Georgia

, and Palatka, Florida			Interstate from A. C. L. North Florida Stations and Proposed from Georgia					Georgia Manufacturer's Disadvantage as Compared with Manufacturers At:		
Lumber, Cl, 50,000 Lbs.			Logs, Cl, 150,000 Lbs.		Lumber, Cl, 50,000 Lbs.					
Rate	Revenue	Total	Rate	Revenue	Rate	Revenue	Total	Jacksonville Florida	Loughman and Groveland Florida	Perry Gainesville and Palatka, Florida
46	$230.00	$255.65	3.5	52.50	45	$225.00	$277.50	$26.85	$11.85	$21.85
46	230.00	261.50	4.5	67.50	45	225.00	292.50	36.00	21.00	31.00
46	230.00	264.50	5.5	82.50	45	225.00	307.50	48.00	33.00	43.00
46	230.00	269.00	6	90.00	45	225.00	315.00	51.00	36.00	46.00
46	230.00	281.00	7.5	112.50	45	225.00	337.50	61.50	46.50	56.50
40½	202.50	228.15	3.5	52.50	39½	197.50	250.00	26.85	11.85	21.85
40½	202.50	234.00	4.5	67.50	39½	197.50	265.00	36.00	21.00	31.00
40½	202.50	237.00	5.5	82.50	39½	197.50	280.00	48.00	33.00	43.00
40½	202.50	241.50	6	90.00	39½	197.50	287.50	51.00	36.00	46.00
40½	202.50	253.50	7.5	112.50	39½	197.50	310.00	61.50	46.50	56.50
37	185.00	210.65	3.5	52.50	36	180.00	232.50	26.85	11.85	21.85
37	185.00	216.50	4.5	67.50	36	180.00	247.50	36.00	21.00	31.00
37	185.00	219.50	5.5	82.50	36	180.00	262.50	48.00	33.00	43.00
37	185.00	224.00	6	90.00	36	180.00	270.00	51.00	36.00	46.00
37	185.00	236.00	7.5	112.50	36	180.00	292.50	61.50	46.50	56.50
36	180.00	205.65	3.5	52.50	35	175.00	227.50	26.85	11.85	21.85
36	180.00	211.50	4.5	67.50	35	175.00	242.50	36.00	21.00	31.00
36	180.00	214.50	5.5	82.50	35	175.00	257.50	48.00	33.00	43.00
36	180.00	219.00	6	90.00	35	175.00	265.00	51.00	36.00	46.00
36	180.00	231.00	7.5	112.50	35	175.00	287.50	61.50	46.50	56.50

C. No. A-604.
. C. No. A-659.
B-2632.

6/10/31

EXHIBIT No. 61

I. C. C. Docket No. 18364

Witness: Perrin

ment Showing for the Period February 9, 1929 to January 31, 1931, Inclusive, the Number of Cars of Logs More Than Six Feet in Length oved Between Stations on Atlantic Coast Line Railroad in Florida; Also the Weights and the Revenue Collected, Together with Revenue at Would Have Accrued on Basis of the So-Called Cummer Scale of Rates.

Recapitulation

	Number of cars	Weight (pounds)		Revenue	
		As billed	Using carload minimum of 50,000 lbs.	As collected	Using so-called Cummer Scale
et No. 1	2,862	155,173,700	164,137,600	$63,559.74	$31,947.99
et No. 2	13,357	786,139,700	798,191,700	451,955.91	221,203.39
et No. 3	1,763	83,360,500	91,825,900	40,878.72	20,808.62
et No. 4	620	31,059,300	32,667,300	15,114.57	7,265.75
Grand Total	18,602	1,055,733,200	1,086,822,500	$571,508.94	$281,225.75

$571,508.94
281,225.75

$290,283.19

EXHIBIT No. 61—Continued

Sheet No. 1

From	To	Miles	No. of cars	Weight (pounds) As billed	Weight (pounds) Using carload minimum of 50,000 lbs.	Revenue As collected	Revenue Using so-called Cummer Scale
Altoona	Groveland	82	21	1,060,900	1,104,900	$583.46	$254.13
"	Loughman	93	38	1,924,200	1,985,600	1,155.55	516.26
Amonate	Slater	21	53	2,227,890	2,660,800	779.75	355.00
"	Tampa	147	2	86,200	100,000	64.65	34.00
Apopka	Bonds Mill	49	63	2,880,900	3,170,100	1,296.47	655.72
Ascot	Palatka	96	6	281,400	301,200	168.84	78.31
Astor	Jacksonville	106	1	40,000	50,000	26.00	14.00
Astor Park	Groveland	99	17	849,700	901,300	509.82	234.34
Athena	"	96	116	5,747,700	6,028,400	3,448.92	1,567.38
Auburndale	Perry	11	2	90,400	100,000	27.09	17.10
Aulls	Groveland	69	14	697,400	734,200	348.70	168.87
"	"	37	7	333,600	364,500	133.44	62.33
"	Jacksonville	136	14	796,700	810,700	557.69	275.64
Baldwin	Loughman	52	48	2,510,900	2,592,300	1,129.97	544.38
Baum	Palatka	81	2	117,200	117,200	64.46	26.96
Callahan	Jacksonville	20	330	19,665,900	22,001,400	5,899.75	3,762.24
Carbur	Perry	59	3	744,900	150,000	72.44	31.50
"	Jacksonville	20	2	96,800	100,200	29.04	17.13
"	Cross City	27	593	35,848,800	36,196,800	12,560.76	6,189.65
"	Eastport	152	79	4,717,700	4,717,700	3,539.84	1,604.02
Cary	Jacksonville	145	3	179,100	179,100	134.43	60.89
Cassia	Perry	17	201	12,295,400	12,387,100	3,743.41	2,118.19
"	Jacksonville	12	1	48,300	50,000	14.49	8.55
"	Bonds Mill	35	14	724,300	748,700	299.04	128.03
"	Jacksonville	137	25	1,203,900	1,295,400	842.73	440.44
	Loughman	64	14	698,600	725,900	349.30	166.96
	Palatka	82	23	1,129,500	1,187,400	621.25	273.10

Chiefland	Cross City	22	2	113,000	113,000	39.56	19.32
"	Jacksonville	118	4	203,000	206,300	131.95	66.02
"	Perry	66	8	351,200	406,900	175.61	93.59
Citronelle	Jacksonville	141	3	120,000	150,000	90.00	51.00
Clara	Cross City	17	1	56,700	56,700	17.01	9.70
"	Gainesville	77	15	684,300	762,600	376.35	175.40
"	Jacksonville	135	1	51,100	51,100	35.77	17.37
"	Palatka	126	1	82,100	82,100	63.83	26.27
"	Perry	27	4	223,100	232,400	87.68	39.74
Clark	Live Oak	51	1	52,600	52,600	23.67	11.05
Clermont	Jacksonville	167	1	52,300	52,300	41.84	19.35
Clydes	"	133	27	1,153,400	1,352,700	807.38	459.92
"	Loughman	58	21	1,126,300	1,152,200	563.15	241.96
"	Palatka	78	7	322,100	352,100	177.16	80.98
Coats	Jacksonville	157	2	117,200	117,200	87.90	39.85
"	York	39	334	14,584,500	16,827,300	5,833.45	2,877.47
Cross City	Gainesville	60	14	1,040,800	1,041,800	520.40	218.78
" "	Perry	44	382	21,738,100	22,589,500	9,825.29	4,743.80
Crystal River	York	28	192	9,252,000	9,808,300	3,237.22	1,677.22
Deeville	Jacksonville	15	22	1,197,300	1,226,600	359.19	209.75
Drifton	Perry	32	46	1,954,700	2,306,000	781.90	394.33
Dukes	Jacksonville	58	49	2,513,800	2,596,700	1,256.90	545.31
Dyal	Eastport	31	1	55,200	55,200	19.32	9.44
"	Jacksonville	24	32	1,730,700	1,785,100	605.92	305.25
Total			2,862	155,173,700	164,137,600	$63,559.74	$31,947.99

EXHIBIT No. 61—Continued

[fol. 2034]

Sheet No. 2

From	To	Miles	No. of cars	Weight (pounds)		Revenue	
				As billed	Using carload minimum of 50,000 lbs.	As collected	Using so-called Cummer Scale
East Alachua	Gainesville	15	1	41,500	50,000	$22.83	$8.55
"	Jacksonville	74	45	2,322,100	2,361,000	1,277.25	543.03
Edgar	"	77	1	56,100	56,100	30.86	12.90
Erida	Perry	16	10	441,600	500,000	132.49	85.50
Estero	Slater	25	7	280,600	350,000	98.21	59.85
Eugene	Perry	47	2	80,000	100,000	36.00	21.00
Fesan	Jacksonville	63	3	138,400	152,700	69.20	35.12
"	Perry	100	5	232,400	254,500	139.44	66.17
Forest City	Loughman	47	1	55,500	55,500	24.97	11.66
Ft. Mead	Childs	104	1	40,000	50,000	26.00	14.00
Ft. White	Gainesville	32	3	140,800	155,600	56.32	26.61
"	Jacksonville	91	1	46,500	50,000	27.90	13.00
"	Live Oak	37	24	1,273,900	1,287,800	512.00	220.21
Francis	Perry	148	5	209,500	250,000	157.13	85.00
Gainesville	"	104	41	2,132,100	2,183,100	1,385.98	611.27
Gardenia	Jacksonville	142	17	775,700	855,200	543.00	290.77
Green Cove Spgs	"	31	5	241,500	273,400	104.27	46.75
Groveland	Loughman	68	1	55,000	55,000	27.50	12.65
Grove Park	Jacksonville	91	29	1,431,800	1,489,500	858.96	387.27
"	Palatka	36	10	480,300	510,500	192.12	87.30
"	Perry	118	15	735,400	763,500	478.02	244.32
Gulf Hammock	Tampa	115	1	50,100	50,100	32.57	16.03
Hague	Jacksonville	75	96	4,933,900	5,032,900	2,713.83	1,157.57
"	Perry	94	124	6,468,900	6,560,300	3,881.34	1,703.68
Hardeetown	"	65	2	84,100	100,000	42.00	23.00
Haynesworth	"	93	2	104,000	104,000	62.40	27.04
Hazelton	Jacksonville	83	1	56,000	56,000	33.60	12.88

Herlong	"	97	15	832,200	833,700	499.92	216.76
"	Perry	105	4	208,300	208,800	135.41	58.46
High Springs	Gainesville	23	3	159,200	159,200	55.73	27.22
"	Jacksonville	81	13	626,700	660,800	344.72	151.98
"	Palatka	72	1	17,600	50,000	21.12	11.50
"	Perry	90	6	199,700	300,000	126.63	69.00
Hildreth	Jacksonville	97	56	2,982,000	3,025,500	1,789.20	786.63
"	Perry	105	160	9,033,400	9,067,800	5,872.10	2,538.98
Hines	Cross City	10	549	38,731,800	38,813,700	10,342.52	6,637.14
"	Gainesville	70	16	1,210,300	1,211,300	618.73	278.60
"	Palatka	119	7352	458,210,700	458,554,600	298,101.61	146,737.47
"	Perry	34	724	38,853,300	39,905,900	15,601.40	6,823.91
Hollister	Jacksonville	68	1	62,700	62,700	31.35	14.42
"	Perry	141	3	125,200	150,000	93.91	51.00
Homosassa	Lacoochee	68	2995	153,704,600	161,941,400	76,849.26	37,246.52
"	Otter Creek	52	519	29,091,300	29,703,200	13,142.37	6,237.67
"	Perry	130	242	15,531,400	15,593,700	10,976.79	4,989.98
Hooper	Lacoochee	18	7	321,200	351,500	96.36	60.11
Iddo	Perry	14	4	179,400	202,800	53.79	34.68
Istachatta	Groveland	40	2	136,100	136,100	61.24	23.27
"	Lacoochee	17	201	11,485,700	11,941,800	3,447.83	2,042.05
Jacksonville	Baldwin	20	9	444,800	466,300	133.44	79.74
"	Buffalo Bluff	63	1	43,100	50,000	21.53	11.50
Johnson	Jacksonville	79	21	1,041,300	1,094,200	572.76	251.67
Total			13,357	786,139,700	798,191,700	$451,955.91	$221,203.39

[fol. 2035]

EXHIBIT No. 61—Continued

Sheet No. 3

From	To	Miles	No. of cars	Weight (pounds) As billed	Weight (pounds) Using carload minimum of 50,000 lbs.	Revenue As collected	Revenue Using so-called Cummer Scale
Johnstown	Jacksonville	49	7	403,300	403,300	$181.51	$84.69
Jones Siding	Perry	59	21	1,010,100	1,060,900	505.05	222.79
Jonesto	Gainesville	36	2	103,500	103,500	41.40	17.70
"	Jacksonville	68	7	424,900	434,900	212.45	100.03
Kendrick	Gainesville	36	3	167,800	167,800	67.12	28.69
"	Jacksonville	121	6	281,000	302,600	196.70	96.83
Lacoochee	Perry	155	4	197,000	205,600	147.75	69.90
Lamont	"	22	648	29,811,600	33,022,600	10,432.77	5,646.86
Lebanon	Cross City	48	45	2,702,500	2,721,100	1,216.25	571.43
"	Perry	92	2	83,300	100,000	50.00	26.00
Leno	Buffalo Bluff	27	1	44,500	50,000	15.57	8.55
"	Jacksonville	38	23	1,089,100	1,178,300	435.64	201.49
Linden	Lacoochee	11	2	87,800	100,000	26.34	17.10
Lisbon	Loughman	91	2	106,300	106,300	63.78	27.64
Longwood	Jacksonville	134	171	7,216,600	8,562,500	5,051.63	2,911.25
"	Palatka	79	24	1,093,500	1,219,300	601.42	280.44
Lowell	Perry	133	3	131,900	150,000	92.33	51.00
Markham	Bonds Mill	30	39	2,149,600	2,203,500	859.84	376.80
Martin	Gainesville	33	5	235,000	257,500	94.00	44.03
Micanopy	Jacksonville	103	5	220,400	255,600	135.02	71.57
"	Perry	122	34	1,710,200	1,788,300	1,197.14	572.26
Miccosukee	"	54	43	2,029,500	2,215,200	913.58	465.19
Monticello	Gainesville	140	1	50,000	60,000	42.00	20.40
"	Perry	36	284	12,452,400	14,276,300	4,981.58	2,441.25
Mount Plymouth	Bonds Mill	39	11	559,900	582,800	228.43	99.66
Oakton	Eastport	88	1	53,700	53,700	29.54	12.35
"	Gainesville	29	2	111,100	111,100	38.89	19.00
"	Jacksonville	75	10	596,300	596,900	327.89	137.29

O'Brien	Live Oak	18	2	104,000	106,200	31.86	18.16
"	Perry	118	5	251,800	269,800	163.69	86.34
Ocala	Jacksonville	126	2	80,000	100,000	56.00	32.00
"	Perry	133	3	149,000	150,000	104.72	51.00
Okahumpka	Claim	81	2	93,400	101,700	56.04	23.19
"	Gainesville	81	3	164,300	164,300	90.37	37.79
"	Loughman	99	5	270,200	271,700	162.12	70.64
Old Town	Jacksonville	109	9	431,800	456,300	329.54	127.76
"	Perry	54	16	689,700	807,600	310.61	169.60
Orange Park	Jacksonville	15	6	292,200	313,400	87.66	53.59
Otter Creek	Cross City	34	18	1,007,300	1,011,300	402.92	172.93
"	Lacoochee	77	2	103,500	104,700	56.93	24.08
"	Perry	78	5	211,200	250,000	116.26	57.50
Oviedo	Jacksonville	143	87	3,531,400	4,350,000	2,648.64	1,479.00
Palatka	Jacksonville	57	9	448,600	470,900	224.30	98.89
"	Perry	153	13	543,700	650,000	407.78	221.00
Paradise	Jacksonville	82	5	207,300	250,000	114.02	57.50
"	Perry	100	7	360,800	374,700	216.48	97.42
Perry	Eastport	169	142	8,483,500	8,483,500	6,786.45	3,138.90
"	Otter Creek	78	2	80,000	100,000	44.00	23.00
Pineola	Groveland	42	9	438,000	457,900	197.09	96.16
"	Lacoochee	18	5	285,400	292,300	85.62	49.98
Total			1,763	83,360,500	91,825,900	$40,878.72	$20,808.62

[fol. 2036]

EXHIBIT No. 61—Continued

Sheet No. 4

From	To	Miles	No. of cars	Weight (pounds)		Revenue	
				As billed	Using carload minimum of 50,000 lbs.	As collected	Using so-called Cummer Scale
Raiford	Jacksonville	45	8	393,600	419,400	$177.14	$88.07
Raleigh	"	104	6	319,200	324,400	207.49	90.83
"	Perry	94	10	541,500	541,500	324.66	140.79
Ratliff	Jacksonville	15	6	275,600	300,000	82.68	51.30
Rochelle	Buffalo Bluff	45	32	1,539,000	1,635,900	692.56	343.54
"	Cross City	70	52	2,686,100	2,727,100	1,340.90	627.23
"	Jacksonville	95	11	588,600	596,000	353.34	454.96
"	Palatka	40	34	1,942,000	1,943,300	778.83	332.30
Rogers Mile Post	Perry	114	41	2,084,100	2,170,800	1,354.67	694.66
Rowell	Live Oak	47	12	638,400	646,200	286.81	135.70
Sadler	Palatka	35	1	52,800	52,800	21.12	9.03
Salem	Palatka	94	1	48,100	50,000	26.46	13.00
Sanford	Perry	19	13	551,300	650,000	165.37	111.15
Sanlando	Loughman	51	25	1,280,000	1,309,300	640.00	268.80
Santa Fe	"	52	2	96,500	106,500	43.43	22.37
"	Gainesville	21	2	88,200	100,000	30.87	17.10
"	Jacksonville	65	2	109,100	110,100	54.55	25.32
Seville	Perry	98	11	533,400	564,000	320.04	156.64
"	Buffalo Bluff	22	61	2,912,000	3,113,000	1,019.32	532.32
"	Jacksonville	84	2	86,600	100,000	47.63	23.00
Sorrento	Palatka	29	1	44,500	50,000	15.56	8.55
Thompsons Spur	Groveland	57	1	50,900	50,900	30.54	10.69
Tice	Perry	107	47	2,221,800	2,396,700	1,444.19	671.08
Trenton	Slater	6	11	440,000	550,000	110.00	94.04
"	Gainesville	41	2	101,800	101,800	45.82	21.38
	Jacksonville	99	1	49,500	50,000	29.70	13.00

Wagner	Bonds Mill	35	32	1,331,600	1,600,600	532.56	273.70
"	Glenwood	33	2	97,600	101,600	39.04	17.37
"	Jacksonville	137	16	770,100	837,200	539.07	284.65
"	Loughman	62	60	2,996,100	3,122,400	1,498.10	718.15
"	Palatka	82	1	44,500	50,000	24.48	11.50
Walkill	Eastport	47	1	70,700	70,700	28.28	14.85
"	Jacksonville	34	3	185,800	185,800	74.32	31.77
Walling	Bonds Mill	35	62	3,481,600	3,540,400	1,342.56	600.28
"	Glenwood	34	1	51,600	51,600	20.64	8.82
Walling Spur	Bonds Mill	35	2	118,500	118,500	47.40	20.26
Wekiva	"	31	3	139,300	153,200	55.72	26.20
"	Jacksonville	134	9	423,700	454,900	296.59	154.67
Williston	Perry	98	27	1,415,800	1,450,700	849.48	377.18
York	Jacksonville	136	1	44,400	50,000	26.64	17.00
Zephyrhills	Groveland	42	5	213,400	250,000	96.01	52.50
Total			620	31,059,300	32,667,300	$15,114.57	$7,265.75

Wilmington, N. C., June 1, 1931.

[fol. 2037]

DEFENDANT'S EXHIBIT No. 63

Witness: J. W. Perrin

BEFORE THE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. 18364

Statement Showing Comparison in Cents Per 100 Pounds, of the So-Called Cummer Log Scale with Intrastate Rates Between Points on the Atlantic Coast Line Railroad in North Carolina, South Carolina, Georgia, Alabama and Virginia

		Description					
	A	B	C	D	E	F	G
	So-Called Cummer		North	South	Georgia		
Miles	Log Scale	Virginia	Carolina	Carolina	Transit	Local	Alabama
5	1.71	2½	1.8	2	1.83	3.05	2½
7	1.71	2½	1.8	2	1.83	3.05	2½
10	1.71	2½	1.8	2	2.11	3.51	2½
12	1.71	3	1.8	2½	2.11	3.51	3
15	1.71	3	2.13	2½	2.11	4.17	3
17	1.71	3	2.13	2½	2½	4.17	3
20	1.71	3	2.13	2½	2.63	4.38	3
22	1.71	3½	2.13	3	2.63	4.38	3½
25	1.71	3½	2.62	3	2.88	4.79	3½
27	1.71	3½	2.62	3	2.88	4.79	3½
30	1.71	3½	2.62	3	3	5	3½
32	1.71	4	2.62	3	3	5	4
35	1.71	4	2.88	3	3¼	5.41	4
37	1.71	4	2.88	3	3¼	5.41	4
40	1.71	4	2.88	3	3.38	5.61	4
42	2.1	4½	2.88	3½	3.38	5.61	4½
45	2.1	4½	2.88	3½	3½	5.91	4½
47	2.1	4½	3¼	3½	3½	5.91	4½
50	2.1	4½	3¼	3½	3½	5.91	4½
52	2.1	4½	3¼	3½	3½	5.91	4½
55	2.1	4½	3½	3½	3.63	6.04	4½
57	2.1	5	3½	4	3.63	6.04	5
60	2.1	5	3½	4	4	6.66	5
62	2.3	5	3½	4	4	6.66	5
65	2.3	5	4	4	4.13	6.87	5
67	2.3	5	4	4	4.13	6.87	5
70	2.3	5	4	4	4¼	7.08	5
72	2.3	5½	4	5	4¼	7.08	5½
75	2.3	...	4¼	5	4.38	7.29	5½
77	2.3	...	4¼	5	4.38	7.29	5½
80	2.3	...	4¼	5	4.63	7.71	5½

[fol. 2038]

82	2.3	...	4¼	5	4.63	7.71	5½
85	2.3	...	4.62	5	4¾	7.91	5½
87	2.3	...	4.62	5	4¾	7.91	6
90	2.3	...	4.62	5	4.88	8.12	6
92	2.6	...	4.62	5	4.88	8.12	6
95	2.6	...	5	5	5.13	8.54	6
97	2.6	...	5	5	5.13	8.54	6
100	2.6	...	5	5	5.38	8.96	6
110	2.8	...	5.38	6½	5½	9.17	6½

Description	A So-Called Cummer Log Scale	B Virginia	C North Carolina	D South Carolina	E Georgia Transit	F Georgia Local	G Alabama
120	3.2	...	5.63	6½	5.63	9.34	6½
130	3.2	...	6.13	7	5¾	9.58	7
140	3.4	...	6¼	7	6	10	7
150	3.4	...	6¾	8	6¼	10.41	7½
160	3.4	...	7.13	8	6.38	10.62	7½
170	3.7	...	7.38	8	6½	10.83	8

Explanation of Descriptions

Where Rates in Tariffs are Stated in Cents Per Car of a Given Weight, They Have Been Converted to Cents Per 100 Pounds, Holding to Nearest Fraction.

A—Logs carloads, except cedar logs. Per car 50,000 pounds, excess in proportion.

B—Logs (except Cedar, Cherry, Mahogany and Walnut), carloads, minimum weight 40,000 pounds. (Authorized by Virginia Corporation Commission in Case No. 4208, August 26, 1930).

C—Logs, rough, C. L., per car 40,000 pounds, excess in proportion, (prescribed by the North Carolina Corporation Commission in its Circular No. 251 of August 5, 1923.)

D—Logs, native wood carload minimum weight 40,000 pounds. Issued in compliance with Order No. 616, Docket No. 1097 and Circular 322 (Corrected) of the Railroad Commission of South Carolina, dated July 21, 1930. (Published under protest.)

E—Logs (not hewn or sawn; nor piling or poles) and short length blocks, round or split, when for manufacture and product reshipped, per car 40,000 pounds.

F—Logs, N. O. S., carload minimum 24,000 pounds (Authority Georgia Public Service Commission's Order, September 28, 1926, file 16019.)

G—Forest Products, Viz: Billets, Blocks, Bolts or Butts (handle, heading, hoop,

[fol. 2039]

shingle or stave) and logs, carloads, minimum weight 40,000 pounds. (Issued in compliance with order of the Alabama Public Service Commission in Docket No. 4136, dated April 29, 1925.)

Tariff Authorities

Agent J. H. Glenn's Alabama Commodity Tariff I. C. C. No. A-757.
A. C. L. R. R. Virginia-Carolina Lumber Tariff I. C. C. No. B-2512.
Agent E. H. Dulaney's Georgia Intrastate Exceptions No. 3, I. C. C. No. 39.
Agent J. H. Glenn's South Carolina Commodity Tariff I. C. C. No. A-664.
Agent J. J. Cottrell's North Carolina Intrastate Tariff, I. C. C. No. 767.
Wilmington, N. C., June 5, 1931.

[fol. 2040] DEFENDANT'S EXHIBIT NO. 64

Witness: Perrin

I. C. C. Docket No. 18364

Statement Showing "Cummer Scale" (in Cents per Car of 50,000 Pounds, Excess in Proportion, but Reduced to Cents per 100 Pounds), also 5.03%, 3.54%, and 3.85%, Respectively, of 1st Class, K-2 Scale, Prescribed in Docket No. 13494, Southern Class Rate Investigation, 113 I. C. C. 200, 207

Miles	"Cummer" Scale	Percentage of 1st Class, K-2 Scale: 5.03 Percent (See Note 1)	3.54 Percent (See Note 2)	3.85 Percent (See Note 3)
5	1.71	1.71	1.20	1.31
10	1.71	1.81	1.27	1.39
15	1.71	1.96	1.38	1.50
20	1.71	2.06	1.45	1.58
25	1.71	2.21	1.56	1.69
30	1.71	2.31	1.63	1.77
35	1.71	2.46	1.73	1.89
40	1.71	2.56	1.81	1.96
45	2.10	2.72	1.91	2.08
50	2.10	2.82	1.98	2.16
55	2.10	2.97	2.09	2.27
60	2.10	3.07	2.16	2.35
65	2.30	3.22	2.27	2.46
70	2.30	3.32	2.34	2.54
75	2.30	3.42	2.41	2.62
80	2.30	3.52	2.48	2.70
85	2.30	3.62	2.55	2.77
90	2.30	3.67	2.58	2.81
95	2.60	3.72	2.62	2.85
100	2.60	3.82	2.69	2.93
110	2.80	3.97	2.80	3.04
120	3.20	4.12	2.90	3.16
130	3.20	4.27	3.01	3.27
140	3.40	4.43	3.11	3.39
150	3.40	4.58	3.22	3.50
160	3.40	4.73	3.33	3.62
170	3.70	4.83	3.44	3.70

[fol. 2041]

Explanation of Notes:

NOTE 1. 5.03%: Percentage relationship rate on logs for 5 miles (1.71), representing "minimum" rate of log scale, bears to 1st Class, K-2 Scale, for 5 miles (34).

NOTE 2. 3.54%: Percentage relationship rate on logs for 110 miles (2.80), representing "mean" rate of log scale, bears to 1st Class, K-2 Scale, for 110 miles (79).

NOTE 3. 3.85%: Percentage relationship rate on logs for 170 miles (3.70), representing "maximum" rate of log scale, bears to 1st Class, K-2 Scale, for 170 miles (96).

Tariff Authority:

Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2042]

DEFENDANT'S EXHIBIT NO. 65

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale and per Ton and Car-mile Revenue Thereunder. Scale Has also Been Extended Beyond 170 to 320 Miles at the Rate of 150 Cents for Each Additional 30 Miles so as to Afford a Better Demonstration of the Level of the Scale Involved

NOTE: The rate of progression used in extending the scale was determined by the amount of the last actual increase in the scale applied for the distance of the last complete mileage block of the original scale.

Tariff Authority:
Agent J. H. Glenn's Southern Lumber Tariff, I. C. C. No. A-659.

[fol. 2043]

Wilmington, N. C., June 6, 1931.

Miles,	"Cummer" Scale	Per Ton-Mile (Mills)	Per car 60,000 Pounds (Dollars)	Per car-Mile (Cents)
5	1.71	68.4	10.26	205.1
10	1.71	34.2	10.26	102.6
15	1.71	22.8	10.26	68.4
20	1.71	17.1	10.26	51.3
25	1.71	13.7	10.26	41.1
30	1.71	11.4	10.26	34.2
35	1.71	9.8	10.26	29.3
40	1.71	8.6	10.26	25.7
45	2.10	9.3	12.60	28.0
50	2.10	8.4	12.60	25.2
55	2.10	7.6	12.60	22.9
60	2.10	7.0	12.60	21.0
65	2.30	7.1	13.80	21.2
70	2.30	6.6	13.80	19.7
75	2.30	6.1	13.80	18.4
80	2.30	5.8	13.80	17.3
85	2.30	5.4	13.80	16.2
90	2.30	5.1	13.80	15.3
95	2.60	5.5	15.60	16.4
100	2.60	5.2	15.60	15.6
110	2.80	5.1	16.80	15.3
120	3.20	5.3	19.20	16.0
130	3.20	4.9	19.20	14.8
140	3.40	4.9	20.40	14.6
150	3.40	4.5	20.40	13.6
160	3.40	4.3	20.40	12.7
170	3.70	4.4	22.20	13.1
180	3.70	4.1	22.20	12.3
190	3.70	3.9	22.20	10.7
200	4.00	4.0	24.00	12.0
210	4.00	3.8	24.00	11.4
220	4.00	3.6	24.00	10.9
230	4.30	3.7	25.80	11.2
240	4.30	3.6	25.80	10.7
250	4.30	3.4	25.80	10.3
260	4.60	3.5	27.60	10.6
270	4.60	3.4	27.60	10.2
280	4.60	3.3	27.60	9.9
290	4.90	3.4	29.40	10.1
300	4.90	3.3	29.40	9.8
310	4.90	3.2	29.40	9.5
320	5.20	3.3	31.20	9.8

[fol. 2044]

DEFENDANT'S EXHIBIT No. 66

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale, in Cents Per 100 Pounds, and Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Suspended Rates on Ex-Lake Iron Ore from the Lower Lake Erie Ports to Points of Destination Shown Found Not Justified Because Unreasonably Low in I. and S. Docket No. 1514, Trunk-Line and Ex-Lake Iron Ore Rates, 69 I. C. C. 589, (See Excerpts Following Rate Tables), and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder

Wilmington, N. C., June 8th, 1931

[fol. 2045]

"Cummer" scale						Ex-lake iron ore (see note)						
		Revenue				Miles		Suspended rates in cents		Revenue		
Miles	Per 100 lbs.	Per ton-mile Mills	Per car 60,000 pounds Dollars	Per car-mile Cents	From Lower Lake Erie ports To	Minimum maximum	Average	Per ton 2240 lbs.	Per 100 lbs.	Per net ton-mile Mills	Per car 119000 lbs. Dollars	Per car-mile Cents
63.....	2.30	7.1	13.80	21.2	Youngstown	50-74	63	73.0	3.26	10.3	38.79	61.6
89.....	2.30	5.1	13.80	15.3	Leetonie Group	75-99	89	78.5	3.50	7.9	41.65	46.8
113.....	3.20	5.3	19.20	16.0	Midland Group	100-124	113	88.5	3.95	7.0	47.01	41.6
145.....	3.40	4.3	20.40	12.7	Pittsburgh-Wheeling District	125-159	145	102.	4.55	6.3	54.15	37.4
170.....	3.70	4.4	22.20	13.1	Donora Group	163-181	170	109.	4.87	5.7	57.95	34.1

Certain pertinent extracts reproduced as a matter of convenience from report in I. and S. Docket No. 1514, Trunk-Line and Ex-Lake Iron Ore Rates, (69 I. C. C. 589):

Page 599: "In support of the suspended rates, which are admittedly lower than rates on coal for like hauls, it has been submitted that iron ore loads heavier per car than coal, that the expenses incident to assembling cars of coal from the different mines is not incurred at the lake ports, and that the movement of ore from the ports is in large volume, usually in trainload lots and concentrated from and to a comparatively few points, while the movement of coal is widely scattered, and though in the aggregate the movement is much greater than that of ore, coal often moves to particular points in lots of one or only a few cars."

Page 610-611: "We, therefore, find the suspended rates on ex-lake ore unreasonable and unlawful, and by order shall require their cancellation. We find them unreasonable and unlawful for the reason that in relation to rates in general, and in relation to rates closely affiliated, such as on coal, they would tend to cast an undue burden upon other traffic; that they would be unduly prejudicial to ore traffic from mines in eastern trunk-line territory, so far as the same carriers participate in the interstate carriage of both ex-lake and local mine ore traffic; that they are unlawful inasmuch as their establishment would jeopardize the rates on a large volume of other heavy-loading low-grade traffic which we have initiated under the authority of section 15a [fol. 2046] of the interstate commerce act with the intent that the carriers in the rate groups by us established shall 'under honest, efficient and economical management and reasonable expenditures for maintenance of way, structure and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation.' This rate of annual return we have fixed at 5.75 per cent, a rate of return which certain of the respondents have protested as inadequate, and which, if our judgement upon the effect of the proposed reduction in ex-lake ore rates is correct, the carriers are hereby likely to further reduce and jeopardize. We have only recently rejected tariffs of certain of the respondents intended to establish on three days' notice a further 10 per cent reduction over the 28 per cent

reduction already in effect in some of the eastern and import rates, notably the rate from Constable Hook to Bethlehem. We mention this fact in connection with the reductions on ex-lake ore here proposed by the carriers, in order to make clear that in our judgement our authority under section 15a, in the exercise of our power to prescribe just and reasonable rates to 'initiate, modify, establish or adjust' rates is not a mere transitory authority to establish in the first instance a general rate structure calculated to produce a fair return, but is a continuing authority to see that such a rate structure shall not be undermined and its purpose thwarted by new rates, either increases or reductions, proposed by particular carriers for the purpose of augmenting the traffic on certain carrier lines, or on certain descriptions of traffic, or for the immediate and special benefit of particular persons, companies, firms, corporations, localities, or particular descriptions of traffic, in disregard of the more general and seemingly inevitable consequences of such rates newly proposed. To upset or seriously to menace a general structure lawfully established suffices to make proposed rates calculated to effect such a disruption unreasonable and unlawful."

Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida in 1930, amounted to approximately 58,000 pounds.

Ex-Lake Iron Ore: 119,000 pounds: Approximate average of all cars originated by carriers of Great Lakes Region during 1930, as per Statement No. 30100, issued by Bureau of Statistics, Interstate Commerce Commission, Washington, D. C.

[fol. 2047] Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of Longleaf Pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided

in various notes in "Exceptions No. 8 to Southern Classification," Agent E. H. Dulaney's I. C. C. No. 35.

Ex-Lake Iron Ore: Iron ore, Mesabi, per net ton, lower lake ports:

Bessemer: $4.15,

Non-Bessemer: 4.02.

Authority: "Wholesale Prices of Commodities—April, 1931," issued by Bureau of Labor Statistics, U. S. Department of Labor, Washington, D. C.

NOTE: Miles and rates shown above in connection with ex-lake iron ore, reproduced from report in I. and S. Docket No. 1514, Trunk-Line and Ex-Lake Iron Ore Rates, (69 I. C. C. 589, 596).

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2048]

DEFENDANT'S EXHIBIT No. 67

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale (in Cents Per 100 Pounds), also Present Interstate Scale on Logs, in Comparison with 65% of 6th Class Rates in Central Territory Generally Applicable Therein on Logs, and Rates in Southern Territory Made the Same Percentage of 1st Class Rates Therein (17.875%) as 65% of 6th Class Rates Bears to 1st Class Rates in Central Territory, (see Note)

NOTE: In No. 13679, Public Service Commission of Indiana v. Ann Arbor Railroad Company et al, 85 I. C. C. 533, 65% of 6th Class rates was prescribed for application on logs between points in Central territory.

Wilmington, N. C., June 8, 1931

[fol. 2049]

	Rates in cents per 100 pounds					
			Central territory		Southern territory	
Miles	"Cummer" scale	Interstate scale	6th class	65% of 6th class	1st class	17.875% of 1st class
5	1.71	2.5	8	5.20	34	6.08
10	1.71	2.5	9	5.85	36	6.44
15	1.71	3.0	9	5.85	39	6.98
20	1.71	3.0	9	5.85	41	7.33
25	1.71	3.5	10	6.50	44	7.88
30	1.71	3.5	10	6.50	46	8.22
35	1.71	4.0	11	7.15	49	8.76
40	1.71	4.0	11	7.15	51	9.12
45	2.10	4.5	12	7.80	54	9.65
50	2.10	4.5	12	7.80	56	10.02

Miles	"Cummer" scale	Interstate scale	Rates in cents per 100 pounds: Central territory 6th class	Central territory 65% of 6th class	Southern territory 1st class	Southern territory 17.875% of 1st class
55	2.10	4.5	12	7.80	59	10.55
60	2.10	5.0	13	8.45	61	10.90
65	2.30	5.0	13	8.45	64	11.44
70	2.30	5.0	13	8.45	66	11.80
75	2.30	5.5	14	9.10	68	12.15
80	2.30	5.5	14	9.10	70	12.51
85	2.30	5.5	15	9.75	72	12.87
90	2.30	6.0	15	9.75	73	13.05
95	2.60	6.0	15	9.75	74	13.23
100	2.60	6.0	15	9.75	76	13.58
110	2.80	6.5	16	10.40	79	14.12
120	3.20	6.5	17	11.05	82	14.65
130	3.20	7.0	17	11.05	85	15.19
140	3.40	7.0	18	11.70	88	15.73
150	3.40	7.5	18	11.70	91	16.26
160	3.40	7.5	18	11.70	94	16.80
170	3.70	8.0	19	12.35	96	17.15
180		8.0	19	12.35	98	17.52
190		8.5	20	13.00	100	17.88
200		8.5	20	13.00	102	18.23
210		9.0	21	13.65	104	18.59
220		9.0	21	13.65	106	18.95
230		9.5	21	13.65	108	19.30
240		9.5	22	14.30	110	19.66
260		10.0	23	14.95	114	20.30
[fol. 2050]						
280		10.5	23	14.95	118	21.09
300		11.0	24	15.60	122	21.80
320		11.5	24	15.60	126	22.52
340		12.0	25	16.25	130	23.22
360		12.5	26	16.90	134	23.94
380		13.0	26	16.90	138	24.67
400		13.5	27	17.55	142	25.38
420		14.0	28	18.20	145	25.92
440		14.5	29	18.85	148	26.45
460		15.0	29	18.85	151	26.99
480		15.5	30	19.50	154	27.52
500		16.0	31	20.15	157	28.07
520		16.5	31	20.15	160	28.60
540		17.0	32	20.80	163	29.12
550		17.5	32	20.80	166	29.67
560			32	20.80	166	29.67

Tariff authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2051]

DEFENDANT'S EXHIBIT No. 68

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale (in Cents Per 100 Pounds), also Present Interstate Scale on Logs, in Comparison With 65% of the Lumber Scale Approved in I. & S. Docket No. 2479, Lumber and Forest Products Between Southern Points and Destinations in Virginia, 157 I. C. C. 280 (see Note)

NOTE: This basis, namely, 65% of rates on lumber, has been prescribed in a number of cases for application on logs, notably:

In No. 18307, Marvil Package Company v. Norfolk Southern Railroad Company, et al, 140 I. C. C. 78, covering rates from points in North Carolina and Virginia to points in Maryland, Delaware, and New Jersey.

In No. 21904, Williamson Veneer Company v. Baltimore & Ohio Railroad Company, et al, 171 I. C. C. 687, covering the rates from points in Virginia to Baltimore, Md.

Wilmington, N. C., June 8, 1931

[fol. 2052]

Miles	Rates in cents per 100 pounds "Cummer" scale	Interstate scale	I. & S. 2479 lumber scale	65% of lumber scale
5	1.71	2.5	4.5	2.93
10	1.71	2.5	5.0	3.25
15	1.71	3.0	5.5	3.58
20	1.71	3.0	6.0	3.90
25	1.71	3.5	6.5	4.23
30	1.71	3.5	7.0	4.55
35	1.71	4.0	7.0	4.55
40	1.71	4.0	7.5	4.88
45	2.10	4.5	8.0	5.20
50	2.10	4.5	8.5	5.53
55	2.10	4.5	9.0	5.85
60	2.10	5.0	9.5	6.18
70	2.30	5.0	10.0	6.50
80	2.30	5.5	10.5	6.83
85	2.30	5.5	11.0	7.15
90	2.30	6.0	11.0	7.15
100	2.60	6.0	11.5	7.48
110	2.80	6.5	12.5	8.13
120	3.20	6.5	13.0	8.45
130	3.20	7.0	13.5	8.78
140	3.40	7.0	14.0	9.10
160	3.40	7.5	14.5	9.43
170	3.70	8.0	15.0	9.75
180	....	8.0	15.5	10.08
190	....	8.5	16.0	10.40
200	....	8.5	16.5	10.73
210	....	9.0	17.0	11.05
220	....	9.0	17.5	11.38
230	....	9.5	18.0	11.70
240	....	9.5	18.5	12.03
250	....	10.0	19.0	12.35
260	....	10.0	19.5	12.68
280	....	10.5	20.0	13.00
300	....	11.0	20.5	13.33
320	....	11.5	21.5	13.96

Miles	"Cummer" scale	Rates in cents per 100 pounds Interstate scale	I. & S. 2479 lumber scale	65% of lumber scale
[fol. 2053]				
340		12.0	22.5	14.63
360		12.5	23.5	15.28
380		13.0	24.0	15.60
400		13.5	24.5	15.93
420		14.0	25.5	16.58
440		14.5	26.5	17.23
460		15.0	27.5	17.88
480		15.5	28.0	18.20
500		16.0	28.0	18.20
520		16.5	28.0	18.20
540		17.0	29.0	18.85
550		17.5	29.0	18.85
560			29.0	18.85

Tariff authority: Agent J. H. Glenn's "Southern Lumber Tariffs," I. C. C. No. A-659.

[fol. 2054]

DEFENDANT'S EXHIBIT No. 69

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer Scale," in Cents per 100 Pounds, and Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates on Charcoal (see note) and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder

NOTE: Rates on Charcoal shown approved in I. and S. Docket No. 3460, covering general revision of rates to, from and between points in Southern territory, wherein it was said:

". . . The low level of the rates, particularly on the interterritorial traffic, and the light loading, would result in meager earnings, ordinarily from about 14 to 19 cents, and averaging about 16 cents, per car-mile and in all probability, therefore, be barely remunerative. Even before the World War we regarded such earnings as low." 168 I. C. C. 633, 638.

Wilmington, N. C., June 8th, 1931.

[fol. 2055]

Miles	"Cummer" Scale: Rate per 100 pounds	Revenue: Ton-mile (mills)	Per car 60,000 pounds	Car-mile (cents)	Charcoal: Rate per 100 pounds	Revenue: Ton-mile (mills)	Per car 28,000 pounds	Car-mile (cents)
10	1.71	34.2	$10.26	102.6	8	320.0	$22.40	224.0
15	1.71	22.8	10.26	68.4	9	120.0	25.20	168.0
25	1.71	13.7	10.26	41.1	10	80.0	28.00	112.0
35	1.71	9.8	10.26	29.3	11	62.9	30.80	88.0
40	1.71	8.6	10.26	25.7	12	60.0	33.60	84.0
50	2.10	8.4	12.60	25.2	13	52.0	36.40	72.8
60	2.10	7.0	12.60	21.0	14	46.7	39.20	65.3
70	2.30	6.6	13.80	19.7	15	42.9	42.00	60.0
80	2.30	5.8	13.80	17.3	16	40.0	44.80	56.0
90	2.30	5.1	13.80	15.3	17	37.8	47.60	52.9

Miles	"Cummer" Scale: Rate per 100 pounds	Revenue: Ton-mile (mills)	Revenue: Per car 60,000 pounds	Revenue: Car-mile (cents)	Charcoal: Rate per 100 pounds	Revenue: Ton-mile (mills)	Revenue: Per car 28,000 pounds	Revenue: Car-mile (cents)
95	2.60	5.5	15.60	16.4	17	35.8	47.60	50.1
100	2.60	5.2	15.60	15.6	18	36.0	50.40	50.4
110	2.80	5.1	16.80	15.3	18	32.7	50.40	45.8
120	3.20	5.3	19.20	16.0	19	31.7	53.20	44.3
130	3.20	4.9	19.20	14.8	20	30.8	56.00	43.1
140	3.40	4.9	20.40	14.6	20	28.6	56.00	40.0
150	3.40	4.5	20.40	13.6	21	28.0	58.80	39.2
160	3.40	4.3	20.40	12.7	22	27.5	61.60	38.5
170	3.70	4.4	22.20	13.1	22	25.9	61.60	36.2

Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida in 1930, amounted to approximately 58,000 pounds.

Charcoal: 28,000 pounds: Average stated in I. and S. Docket No. 3460, covering general revision of rates to, from and between points in Southern territory. 168 I. C. C. 633, 634.

[fol. 2056] Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of longleaf Pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided in various notes in "Exceptions No. 8 to Southern Classification," Agent E. H. Dulaney's I. C. C. No. 35.

Charcoal: With reference to value, it was stated in I. and S. Docket No. 3460, covering general revision of rates on charcoal to, from and between points in Southern territory, as follows:

"* * * It is a low-grade commodity. In bulk it is worth at point of origin between $8 and $9 per ton of 2,000 pounds, but when packed in sacks or compressed into briquettes it is worth two or three times as much." 168 I. C. C. 633, 634.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2057] DEFENDANT'S EXHIBIT No. 70

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale (in Cents Per 100 Pounds) With Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates On Cement (see Note) and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder.

NOTE: Rates on Cement shown prescribed in No. 15806, Lehigh Portland Cement Company v. Aberdeen & Rockfish Railroad Company, et al, wherein it was said:

". * * * Cement is frequently, and perhaps usually, loaded to the maximum capacity of the cars furnished. * * * Cement may be loaded in any kind of moisture-proof equipment and loss and damage claims are negligible." 132 I. C. C. 427, 432.

Wilmington, N. C., June 8th, 1931.

[fol. 2058]

	"Cummer" Scale				Cement			
		Revenue				Revenue		
Miles	Rates in cents per 100 pounds	Per ton-mile (mills)	Per car 60,000 pounds	Per car-mile (cents)	Rates in cents per 100 pounds	Per ton-mile (mills)	Per car 74,000 pounds	Per car-mile (cents)
5	1.71	68.4	$10.26	205.1	5	200.0	$37.00	740.0
10	1.71	34.2	10.26	102.6	6	120.0	44.40	444.0
15	1.71	22.8	10.26	68.4	7½	100.0	55.50	370.0
20	1.71	17.1	10.26	51.3	8½	85.0	62.90	314.5
30	1.71	11.4	10.26	34.2	10	66.7	74.00	246.7
40	1.71	8.6	10.26	25.7	10½	52.5	77.70	193.5
50	2.10	8.4	12.60	25.2	11	44.0	81.40	162.8
60	2.10	7.0	12.60	21.0	11½	38.3	85.10	141.7
70	2.30	6.6	13.80	19.7	12½	35.7	92.50	132.1
80	2.30	5.8	13.80	17.3	13	32.5	96.20	120.3
90	2.30	5.1	13.80	15.3	13½	30.0	99.90	111.0
100	2.60	5.2	15.60	15.6	14	28.0	103.60	103.6
110	2.80	5.1	16.80	15.3	15	27.3	111.00	100.9
120	3.20	5.3	19.20	16.0	15	25.0	111.00	92.5
130	3.20	4.9	19.20	14.8	15½	23.8	114.70	88.2
140	3.40	4.9	20.40	14.6	15½	22.1	114.70	81.9
160	3.40	4.3	20.40	12.7	16	20.0	118.40	74.0
170	3.70	4.4	22.20	13.1	16½	19.4	122.10	71.8

Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida, in 1930 amounted to approximately 58,000 pounds.

Cement: 74,000 pounds: Approximate average as stated in No. 15806, Lehigh Portland Cement Company v. Aberdeen & Rockfish Railroad Company, et al., 132 I. C. C. 427, 432.

[fol. 2059] Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of Longleaf Pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided in various notes in "Exceptions No. 8 to Southern Classification", Agent E. H. Dulaney's I. C. C. No. 35.

Cement: $7.48 per ton of 2,000 pounds (composite price, plant): Based on $1.422 per barrel and weight of 380 pounds per barrel as used in complainant's reply to defendant's exceptions in No. 15806, (Florida portion).

Authority: "Wholesale Prices of Commodities—April, 1931", issued by Bureau of Labor Statistics, U. S. Department of Labor, Washington, D. C.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2060] DEFENDANT'S EXHIBIT NO. 71

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale, in Cents per 100 Pounds, and per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates on Old, Worn-out Bags (see Note) and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder.

NOTE: Rates on Old, Worn-out Bags shown prescribed in No. 20873, Ware Brothers Agency v. Atlantic Coast Line Railroad et al, syllabus of which reads, as follows:

"Rates on old worn-out bags having no greater value than for conversion into second hand cotton-bale covering, in carloads, from Ybor City, Fla., to Tuscumbia, Ala., found unreasonable." 167 I. C. C. 87. 10th Class rates prescribed as reasonable.

Wilmington, N. C., June 6, 1931.

[fol. 2061]

					Bags (old, worn-out)			
		Revenue				Revenue		
Miles	"Cummer" scale	Per ton-mile (mills)	Per car 60,000 pounds (dollars)	Per car-mile (cents)	Rates in cents per 100 pounds	Per ton-mile (mills)	Per car 33,000 pounds (dollars)	Per car-mile (cents)
10	1.71	34.2	10.26	102.6	9	180.0	29.70	297.0
15	1.71	22.8	10.26	68.4	10	133.3	33.00	220.0
25	1.71	13.7	10.26	41.1	11	88.0	36.30	145.2
30	1.71	11.4	10.26	34.2	12	80.0	39.60	132.0
40	1.71	8.6	10.26	25.7	13	65.0	42.90	107.3

Miles	"Cummer" scale	Revenue: Per ton-mile (mills)	Revenue: Per car 60,000 pounds (dollars)	Revenue: Per car-mile (cents)	Bags (old, worn-out): Rates in cents per 100 pounds	Revenue: Per ton-mile (mills)	Revenue: Per car 33,000 pounds (dollars)	Revenue: Per car-mile (cents)
45	2.10	9.3	12.60	28.0	14	62.2	46.20	102.7
50	2.10	8.4	12.60	25.2	15	60.0	49.50	99.0
60	2.10	7.0	12.60	21.0	16	53.3	52.80	88.0
70	2.30	6.6	13.80	19.7	17	48.6	56.10	80.3
80	2.30	5.8	13.80	17.3	18	45.0	59.40	74.2
90	2.30	5.1	13.80	15.3	19	42.2	62.70	69.6
95	2.60	5.5	15.60	16.4	19	40.0	62.70	66.0
100	2.60	5.2	15.60	15.6	20	40.0	66.00	66.0
110	2.80	5.1	16.80	15.3	20	36.4	66.00	60.0
120	3.20	5.3	19.20	16.0	21	35.0	69.30	57.7
130	3.20	4.9	19.20	14.8	22	33.8	72.60	55.8
140	3.40	4.9	20.40	14.6	23	32.9	75.90	54.2
160	3.40	4.3	20.40	12.7	24	30.0	79.20	49.5
170	3.70	4.4	22.20	13.1	25	29.4	82.50	47.9

[fol. 2062] Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in 1930, amounted to approximately 58,000 pounds.

Old, Worn-out Bags: 33,000 pounds: Approximate average as stated in No. 20873, Ware Brothers Agency v. Atlantic Coast Line Railroad et al., 167 I. C. C. 87.

Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of longleaf pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided in various notes in "Exceptions No. 8 to Southern Classification", Agent E. H. Dulaney's I. C. C. No. 35.

Old, Worn-out Bags: $4.00 per ton of 2,000 pounds: Value as stated in No. 20873, Ware Brothers Agency v. Atlantic Coast Line Railroad et al., 167 I. C. C. 87, 88.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2063] DEFENDANT'S EXHIBIT NO. 72

Witness: Perrin

I. C. C. Docket No. 18364

Statement Showing "Cummer" Scale, in Cents Per 100 Pounds, and Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates on Hay (see Note) and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder

NOTE: Rates on Hay shown prescribed in I. & S. Docket No. 3048 Hay, Straw, Excelsior, and Other Commodities between Official Territory and Southern Points, wherein it was said:

"* * * 'the lowest possible lawful rates' which we may prescribe under the Hoch-Smith resolution on any given agricultural traffic as to which depression has been shown must be somewhere within the zone of reasonableness permitted by the flexible limits of discretion reposed in us, and such rates must be put as near the lowest limit or level of that zone as is compatible with the maintenance of ade*quate transportation service.* * * * Upon all the facts of record we are of the view that the ninth-class basis marks the lowest limit of rates which may be lawfully applied on hay and straw, in carloads." 146 I. C. C. 664, 676.

Wilmington, N. C., June 6, 1931

[fol. 2064]

		Revenue			Hay	Revenue		
Miles	"Cummer" scale	Per ton-mile (mills)	Per car 60,000 pounds (dollars)	Per car-mile (cents)	Rates in cents per 100 pounds	Per ton-mile (mills)	Per car 24,000 pounds (dollars)	Per car-mile (cents)
5	1.71	68.4	10.26	205.1	10	400.0	24.00	480.0
10	1.71	34.2	10.26	102.6	11	220.0	26.40	264.0
20	1.71	17.1	10.26	51.3	12	120.0	28.80	144.0
25	1.71	13.7	10.26	41.1	13	104.0	31.20	124.8
35	1.71	9.8	10.26	29.3	14	80.0	33.60	96.0
40	1.71	8.6	10.26	25.7	15	75.0	36.00	90.0
50	2.10	8.4	12.60	25.2	16	64.0	38.40	76.8
55	2.10	7.6	12.60	22.9	17	61.8	40.80	74.2
60	2.10	7.0	12.60	21.0	18	60.0	43.20	72.0
70	2.30	6.6	13.80	19.7	19	54.3	45.60	65.1
80	2.30	5.8	13.80	17.3	20	50.0	48.00	60.0
90	2.30	5.1	13.80	15.3	21	46.7	50.40	56.0
100	2.60	5.2	15.60	15.6	22	44.0	52.80	52.8
110	2.80	5.1	16.80	15.3	23	41.8	55.20	50.4
120	3.20	5.3	19.20	16.0	24	40.0	57.60	48.0
130	3.20	4.9	19.20	14.8	25	38.5	60.00	46.2
140	3.40	4.9	20.40	14.6	25	35.7	60.00	42.9
150	3.40	4.5	20.40	13.6	26	34.7	62.40	41.6
160	3.40	4.3	20.40	12.7	27	33.8	64.80	40.5
170	3.70	4.4	22.20	13.1	28	32.9	67.20	39.5

[fol. 2065] Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida in 1930, amounted to approximately 58,000 pounds.

Hay: 24,000 pounds: Average as stated in I. & S. Docket No. 3048, Hay, Straw, Excelsior, and Other Commodities between Official Territory and Southern Points, 146 I. C. C. 664, 666.

Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of longleaf pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided in various notes in "Exceptions No. 8 to Southern Classification", Agent E. H. Dulaney's I. C. C. No. 35.

Hay: $19.375 per ton of 2,000 pounds for Timothy, No. 1, at Chicago, Illinois: Average for April, 1931, as per "Wholesale Prices of Commodities—April, 1931", issued by Bureau of Labor Statistics, U. S. Department of Labor, Washington, D. C.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A659.

[fol. 2066]

DEFENDANT'S EXHIBIT No. 73

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale, in Cents Per 100 Pounds, and Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates on Fertilizer (see Note), (in Cents Per Ton of 2,000 Pounds, but Reduced to Cents Per 100 Pounds), and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder

NOTE: Rates on Fertilizer shown prescribed in No. 16295, Fertilizers and Fertilizer Materials between Southern Points, where it was stated:
"* * * Fertilizer is a low-grade traffic, subject to no great risk in transit and requiring no special service for its transportation in the sense that 'special service' is generally understood * * * it is entitled to comparatively low rates." 113 I. C. C. 389, 420.

Wilmington, N. C., June 6, 1931

[fol. 2067]

		Revenue			Fertilizer Rates in cents		Revenue		
Miles	"Cummer" scale	Per ton Mile (mills)	Per car 60,000 pounds (dollars)	Per car mile (cents)	Per ton 2,000 pounds	Per 100 pounds	Per ton mile (mills)	Per car 48,000 pounds (dollars)	Per car mile (cents)
10	1.71	34.2	10.26	102.6	100	5.00	100.0	24.00	240.0
15	1.71	22.8	10.26	68.4	110	5.50	73.3	26.40	176.0

Miles	"Cummer" scale	Revenue: Per ton Mile (mills)	Revenue: Per car 60,000 pounds (dollars)	Revenue: Per car mile (cents)	Fertilizer Rates in cents: Per ton 2,000 pounds	Fertilizer Rates in cents: Per 100 pounds	Fertilizer Revenue: Per ton mile (mills)	Fertilizer Revenue: Per car 48,000 pounds (dollars)	Fertilizer Revenue: Per car mile (cents)
20	1.71	17.1	10.26	51.3	120	6.00	60.0	28.80	144.0
25	1.71	13.7	10.26	41.1	125	6.25	50.0	30.00	120.0
30	1.71	11.4	10.26	34.2	135	6.75	45.0	32.40	108.0
35	1.71	9.8	10.26	29.3	140	7.00	40.0	33.60	96.0
40	1.71	8.6	10.26	25.7	150	7.50	37.5	36.00	90.0
45	2.10	9.3	12.60	28.0	155	7.75	34.5	37.20	82.7
50	2.10	8.4	12.60	25.2	165	8.25	33.0	39.60	79.2
55	2.10	7.6	12.60	22.9	170	8.50	30.9	40.80	74.2
60	2.10	7.0	12.60	21.0	180	9.00	30.0	43.20	72.0
65	2.30	7.1	13.80	21.2	185	9.25	28.5	44.40	68.3
70	2.30	6.6	13.80	19.7	195	9.75	27.9	46.80	66.8
75	2.30	6.1	13.80	18.4	200	10.00	26.7	48.00	64.0
80	2.30	5.8	13.80	17.3	205	10.25	25.6	49.20	61.5
85	2.30	5.4	13.80	16.2	210	10.50	24.7	50.40	59.3
90	2.30	5.1	13.80	15.3	215	10.75	23.9	51.60	57.3
95	2.60	5.5	15.60	16.4	220	11.00	23.2	52.80	55.6
100	2.60	5.2	15.60	15.6	225	11.25	22.5	54.00	54.0
110	2.80	5.1	16.80	15.3	235	11.75	21.4	56.40	51.2
120	3.20	5.3	19.20	16.0	245	12.25	20.4	58.80	49.0
130	3.20	4.9	19.20	14.8	255	12.75	19.6	61.20	47.2
140	3.40	4.9	20.40	14.6	265	13.25	18.9	63.60	45.4
150	3.40	4.5	20.40	13.6	275	13.75	18.3	66.00	44.0
160	3.40	4.3	20.40	12.7	285	14.25	17.8	68.40	42.7
170	3.70	4.4	22.20	13.1	295	14.75	17.4	70.80	41.6

[fol. 2068] Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida in 1930, amounted to approximately 58,000 pounds.

Fertilizer: 48,000 pounds: Approximately the average referred to in No. 16295, Fertilizers and Fertilizer Materials between Southern Points, 113 I. C. C. 389.

Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02 average price of longleaf pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. [redacted] Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided

in various notes in "Exceptions No. 8 to Southern Classification", Agent E. H. Dulaney's I. C. C. No. 35.

Fertilizer: Mixed, per ton, (composite price):

South Atlantic, 8-3-3: $20.75.

South Atlantic, other: 22.70.

Authority: "Wholesale Prices of Commodities—April, 1931", issued by Bureau of Labor Statistics, U. S. Department of Labor, Washington, D. C.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2069] DEFENDANT'S EXHIBIT No. 74

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale, in Cents Per 100 Pounds, and Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates on Cullet (see Note) and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder

NOTE: Rates on Cullet shown prescribed in I. & S. Docket No. 3459, Cullet (Broken Glass), from, to and between Points in Southern Territory, wherein it was said:

"* * * Considering actual rates instead of percentages of first class, it appears that the 17.5 per cent basis in the South is but slightly higher than 85 per cent of the sixth-class rates prescribed in Eastern Class-Rate Investigation, 164 I. C. C. 314, in no case exceeding the latter by more than 2 cents, although, as pointed out, it is generally recognized that rates may properly be on a higher level in southern than in official territory." 169 I. C. C. 153, 155.

[fol. 2070] Wilmington, N. C., June 6, 1931

		Revenue			Cullet (Broken Glass) Revenue			
Miles	"Cummer" scale	Per ton-mile (mills)	Per car 60,000 pounds (dollars)	Per car-mile (cents)	Rates in cents per 100 pounds	Per ton-mile (mills)	Per car 60,000 pounds (dollars)	Per car-mile (cents)
10	1.71	34.2	10.26	102.6	6	120.0	36.00	360.0
20	1.74	17.1	10.26	51.3	7	70.0	42.00	210.0
30	1.71	11.4	10.26	34.2	8	53.3	48.00	160.0
40	1.71	8.6	10.26	25.7	9	45.0	54.00	135.0
50	2.10	8.4	12.60	25.2	10	40.0	60.00	120.0
60	2.10	7.0	12.60	21.0	11	36.7	66.00	110.0
70	2.30	6.6	13.80	19.7	12	34.3	72.00	102.9
85	2.30	5.4	13.80	16.2	13	30.6	78.00	91.8
90	2.30	5.1	13.80	15.3	14	31.1	84.00	93.4
100	2.60	5.2	15.60	15.6	14	28.0	84.00	84.0
110	2.80	5.1	16.80	15.3	15	27.3	90.00	81.8
130	3.20	4.9	19.20	14.8	15	23.1	90.00	69.2
140	3.40	4.9	20.40	14.6	15	21.4	90.00	64.3
160	3.40	4.3	20.40	12.7	16	20.0	96.00	60.0
170	3.70	4.4	22.20	13.1	17	20.0	102.00	60.0

[fol. 2071] Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida in 1930, amounted to approximately 58,000 pounds.

Cullet: 60,000 pounds: Approximate average referred to in I. & S. Docket No. 3459, Cullet (Broken Glass), from, to and between Points in Southern Territory, 169 I. C. C. 153, 154, 157.

Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of longleaf pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided in various notes in "Exceptions No. 8 to Southern Classification", Agent E. H. Dulaney's I. C. C. No. 35.

Cullet: With reference to value, it was stated in I. & S. Docket No. 3459, Cullett (Broken Glass), from, to and between Points in Southern Territory, as follows:

"* * * It * * * is valued at approximately $8 per ton at the shipping point, although one protestant stated that for a period of twelve months ending June 1, 1930, its average purchase price was $2.48 per ton, ranging from 50 cents to $4.10." 169 I. C. C. 153.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2072] DEFENDANT'S EXHIBIT No. 75

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale (in Cents Per 100 Pounds) and Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates On Common Brick Generally Applicable for Single-Line Hauls Between Points in the Southeast (see Note) and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder

NOTE: Rates on Common Brick shown prescribed in I. and S. Docket No. 1885, Brick and Clay Products from, to, and Between Points in Southern Territory, wherein it was stated:

"* * * Respondents contend that the proposed rates are lower than those that obtain on other low-grade commodities in the South * * * and that if permitted to become effective they will be among the lowest rates on any commodities in Southern territory. It is their position * * * that the rates suggested for the South are as low as those in official classification territory, whereas, generally the rate level in the South should be higher. * * *" 88 I. C. C. 543, 552, 553.

[fol. 2073] Wilmington, N. C., June 8th, 1931

	"Cummer" Scale				Brick (common)			
		Revenue				Revenue		
Miles	Rates in cents per 100 pounds	Per ton-mile (mills)	Per car 60,000 pounds	Per car-mile (cents)	Rates in cents per 100 pounds	Per ton-mile (mills)	Per car 80,000 pounds	Per car-mile (cents)
10	1.71	34.2	$10.26	102.6	3	60.0	$24.00	240.0
20	1.71	17.1	10.26	51.3	3½	35.0	28.00	140.0
30	1.71	11.4	10.26	34.2	4	26.7	32.00	106.7
40	1.71	8.6	10.26	25.7	4½	22.5	36.00	90.0
60	2.10	7.0	12.60	21.0	5	16.7	40.00	66.7
70	2.30	6.6	13.80	19.7	5½	15.7	44.00	62.9
80	2.30	5.8	13.80	17.3	6	15.0	48.00	60.0
90	2.30	5.1	13.80	15.3	6½	14.5	52.00	57.8
100	2.60	5.2	15.60	15.6	6½	13.0	52.00	52.0
110	2.80	5.1	16.80	15.3	7	12.7	56.00	50.9
130	3.20	4.9	19.20	14.8	7	10.8	56.00	43.1
140	3.40	4.9	20.40	14.6	7	10.0	56.00	40.0
160	3.40	4.3	20.40	12.7	7½	9.38	60.00	37.5
170	3.70	4.4	22.20	13.1	8	9.41	64.00	37.6

Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida in 1930, amounted to approximately 58,000 pounds.

Common Brick: 80,000 pounds: In I. and S. Docket No. 1885, Brick and Clay Products, from, to, and between Points in Southern Territory, 155 I. C. C. 742, loadings of

both 80,000 and 90,000 pounds are used for comparative purposes, the lower having been used herein.

[fol. 2074] Values:

Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of Longleaf Pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided in various notes in "Exceptions No. 8 to Southern Classification", Agent E. H. Dulaney's I. C. C. No. 35.

Common Brick: Approximately $5.00 to $6.25 per ton of 2,000 pounds (composite price, plant): Based on $12.517 per thousand, and estimated weight of 2 and 2.5 tons per 1,000 brick, (68 I. C. C. 217).

Authority: "Wholesale Prices of Commodities—April, 1931", issued by Bureau of Labor Statistics, U. S. Department of Labor, Washington, D. C.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2075] DEFENDANT'S EXHIBIT No. 76

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale, in Cents Per 100 Pounds, and Per Ton-Mile and Per Car and Per Car-Mile Revenue Derived Therefrom, in Comparison With Rates on Sand, Gravel, Et Cetera (see Note) (In Cents Per Ton of 2,000 Pounds, But Reduced to Cents Per 100 Pounds), On the Interstate basis fixed in Docket No. 17517 For Application to, from and Between Points in the Florida Peninsula, and Per Ton-Mile and Per Car and Per Car-Mile Revenue Thereunder

NOTE: Rates on Sand, Gravel, et cetera, shown prescribed in No. 17517, Rates on Chert, Clay, Sand, and Gravel, Within the State of Georgia, wherein it was stated:

"* * * The commodities considered are among the lowest valued offered for transportation and will not move except at comparatively low rates. They are transported generally in open-top cars, load to capacity of the car, and move with little risk of damage or loss. * * * While we shall not prescribe minimum rates, we shall prescribe a scale which takes into consideration the very low values of these commodities and all characteristics, transportation and otherwise, which entitle them to relatively low rates." 122 I. C. C. 133, 137, 148.

[fol. 2076]

Wilmington, N. C., June 8th, 1931

"Cummer" Scale

Miles	Rate per 100 pounds	Revenue: Per ton-mile (mills)	Revenue: Per car 60,000 pounds	Revenue: Per car-mile (cents)
10	1.71	34.2	$10.26	102.6
20	1.71	17.1	10.26	51.3
30	1.71	11.4	10.26	34.2
40	1.71	8.6	10.26	25.7
60	2.10	7.0	12.60	21.0
80	2.30	5.8	13.80	17.3
90	2.30	5.1	13.80	15.3
100	2.60	5.2	15.60	15.6
110	2.80	5.1	16.80	15.3
125	3.20	5.1	19.20	15.4
130	3.20	4.9	19.20	14.8
150	3.40	4.5	20.40	13.6
160	3.40	4.3	20.40	12.7
170	3.70	4.4	22.20	13.1

Sand and Gravel

Per ton-2000 lbs.	Per 100 lbs.	Revenue: Per ton-mile (mills)	Revenue: Per car 100,000 pounds	Revenue: Per car-mile (cents)
70	3.50	70.0	$35.00	350.0
75	3.75	37.5	37.50	187.5
80	4.00	26.7	40.00	133.3
100	5.00	25.0	50.00	125.0
110	5.50	18.3	55.00	91.7
130	6.50	16.3	65.00	81.3
140	7.00	15.6	70.00	77.8
140	7.00	14.0	70.00	70.0
160	8.00	14.5	80.00	72.7
160	8.00	12.8	80.00	64.0
170	8.50	13.1	85.00	65.4
170	8.50	11.3	85.00	56.7
190	9.50	11.9	95.00	59.4
190	9.50	11.2	95.00	55.9

Loadings:

Logs: 60,000 pounds: Average referred to in report of prior hearing was 60,200 pounds. Average of all cars of logs originated on Atlantic Coast Line Railroad in Florida in 1930, amounted to approximately 58,000 pounds.

Sand, Gravel, et cetera: 100,000 pounds: Average as stated in No. 17517, Rates on Chert, Clay, Sand, and Gravel within the State of Georgia, 122 I. C. C. 133, 137, 157.

Valued:

[fol. 2077] Logs: $2.80 per ton of 2,000 pounds f. o. b. mill: Based on $14.02, average price of Longleaf Pine lumber logs per thousand feet, during 1929, as furnished by Mr. R. E. Marsh, in Charge, Division of Forest Economics, Forest Service, U. S. Department of Agriculture, Washington, D. C., in letter dated June 2, 1931, and estimated weight of 10,000 pounds per thousand feet for pine logs, as provided in various notes in "Exceptions No. 8 to Southern Classification", Agent E. H. Dulaney's I. C. C. No. 35.

Sand, Gravel, et cetera: Sand $0.35, Washed Gravel $0.60, Slag (crushed and screened) $0.75, and Crushed Rock $1.35, per ton of 2,000 pounds: As stated in Docket No. 17517, Rates on Chert, Clay, Sand, and Gravel Within the State of Georgia, 122 I. C. C. 133, 138.

Tariff Authority: Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

[fol. 2078]

DEFENDANT'S EXHIBIT No. 77

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing "Cummer" Scale (in Cents Per 100 Pounds), also Present Interstate Scale on Logs, in Comparison With Various Scales Approved or prescribed by the Interstate Commerce Commission

Miles	"Cummer" scale	Interstate scale	Chattanooga scale 30 I.C.C. 36 35 I.C.C. 163	Nashville Scale 68 I.C.C. 181	Mobile scale 146 I.C.C. 317 A	Mobile scale 146 I.C.C. 317 B	Barbourville scale 159 I.C.C. 749
5	1.71	2.5	2.5	2.5	3.0	4.0	2.5
10	1.71	2.5	2.5	3.5	3.0	4.0	2.5
15	1.71	3.0	3.5	3.5	3.5	4.5	3.0
20	1.71	3.0	3.5	4.5	3.5	4.5	3.0
25	1.71	3.5	4.5	5.0	4.0	5.0	3.5
30	1.71	3.5	4.5	6.0	4.0	5.0	3.5
40	1.71	4.0	4.5	6.5	4.5	5.5	4.0
50	2.10	4.5	5.0	6.5	5.0	6.0	4.5
55	2.10	4.5	6.0	7.0	5.0	6.0	4.5
60	2.10	5.0	6.0	7.0	5.5	6.5	5.0
70	2.30	5.0	6.5	8.0	5.5	6.5	5.0
75	2.30	5.5	6.5	8.5	6.0	7.0	5.5
80	2.30	5.5	7.0	8.5	6.0	7.0	5.5
85	2.30	5.5	7.0	9.0	6.0	7.0	5.5
90	2.30	6.0	7.0	9.0	6.5	8.0	...
100	2.60	6.0	8.0	10.5	6.5	8.0	...
110	2.80	6.5	8.0	10.5	7.0	8.5	...
120	3.20	6.5	8.5	11.0	7.0	8.5	...
130	3.20	7.0	8.5	11.0	7.5	9.0	...
140	3.40	7.0	8.5	11.0	7.5	9.0	...
160	3.40	7.5	9.0	11.0	8.0	9.5	...
170	3.70	8.0	9.0	11.5	8.5	10.0	...
180	...	8.0	10.5	11.5	8.5	10.0	...
195	...	8.5	10.5	11.5	9.0	10.5	...
200	...	8.5	10.5	13.0	9.0	10.5	...
210	...	9.0	11.0	13.0	9.5	11.5	...
220	...	9.0	11.0	13.5	9.5	11.5	...
230	...	9.5	11.0	14.0	10.0	12.0	...
240	...	9.5	11.5	14.0	10.0	12.0	...
260	...	10.0	11.5	14.0	10.5	12.5	...

[fol. 2079]

275	...	10.5	11.5	14.0	11.0	13.0	...
280	...	10.5	...	14.0	11.0	13.0	...
300	...	11.0	...	14.0	11.5	13.5	...
320	...	11.5	...	14.0	...	...	...
330	...	12.0	...	14.0	...	...	...
340	...	12.0	...	...	...	...	...
360	...	12.5	...	...	...	...	...
380	...	13.0	...	...	...	...	...
400	...	13.5	...	...	...	...	...
420	...	14.0	...	...	...	...	...

DEFENDANT'S EXHIBIT NO. 77

Witness: Perrin

I. C. C. Docket No. 18364

Statement Showing "Cummer" Scale (in Cents Per 100 Pounds), also Present Interstate Scale on Logs, in Comparison With Various Scales Approved or prescribed by the Interstate Commerce Commission

Miles	"Cummer" scale	Interstate scale	Chattanooga scale 30 I.C.C. 36 35 I.C.C. 163	Nashville Scale 68. I.C.C. 181	Mobile scale 146 I.C.C. 317 A	Mobile scale 146 I.C.C. 317 B	Barbourville. scale 159 I.C.C. 749
440	...	14.5	...	...	...	...	...
460	...	15.0	...	...	...	...	...
480	...	15.5	...	...	...	...	...
500	...	16.0	...	...	...	...	...
520	...	16.5	...	...	...	...	...
540	...	17.0	...	...	...	...	...
550	...	17.5	...	...	...	...	...

Explanation of "S" and "B" shown above:

A. Single-line scale.

B. Single-line scale plus weak-line arbitraries.

Tariff Authority:

Agent J. H. Glenn's "Southern Lumber Tariff", I. C. C. No. A-659.

Wilmington, N. C., June 8th, 1931

(Here follow Exhibits 78, 79, 80, 81, side folios 2080–2083)

[fol. 2080]

I. C

W

Atlantic C

Property Investment and Operating In

	1926	
1. Property Investment as at End of Year:		
2. Investment in Road and Equipment (Account 701)	$270,564,508	$277,
3. Material and Supplies (Account 716)	8,699,718	8,
4. Total	279,264,226	285,
5. Cash (Account 708)	8,494,003	17,
6. Grand Total	287,758,229	303,
7. Operating Income Account:		
8. Average Mileage Operated	4,931.09	
9. Total Operating Revenues	$97,086,547	$80,
10. Freight (Account 101)	68,001,687	58,
11. Passenger (Account 102)	21,257,077	14,
12. Mail (Account 106)	1,619,618	1,
13. Express (Account 107)	2,827,798	2,
14. All other Revenues	3,380,337	2,
15. Total Operating Expenses	$70,701,770	$64,
16. Maintenance of Way and Structures	13,018,939	13,
17. Maintenance of Equipment	18,518,916	16,
18. Traffic	1,878,173	1,
19. Transportation	34,469,600	29,
20. General	2,049,718	2,
21. All other Expenses	766,424	
22. Operating Ratios, Per cent	72.82	
23. Net Operating Revenues	$26,384,747	$16,
24. Railway Tax Accruals	6,725,000	6,
25. Uncollectible Railway Revenues	22,630	
26. Railway Operating Income	19,637,117	9,
27. Hire of Equipment—Net Balance	2,015,237R	
28. Joint Facility Rents—Net Balance	36,073R	
29. Net Railway Operating Income	17,585,807	10,
30. Rate of Return on:		
31. Investment in Road and Equipment—Per cent	6.50	
32. Investment in Road and Equipment, including Materials and Supplies	6.30	
33. Investment in Road and Equipment, including Materials and Supplies and Cash	6.11	

NOTE: "R" Denotes Red Figures.

Wilmington, N. C., June 4th, 1931-1.

EXHIBIT No. 78

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

ntic Coast Line Railroad Company

ng Income Account for Calendar Years 1926 to 1930, Inclusive

1927	1928	1929	1930	Increase or decrease 1930 over 1926	Per cent of increase or decrease
$277,401,102	$280,862,653	$282,918,571	$285,343,512	$14,779,004	5.46
8,111,051	6,612,169	6,386,742	6,701,666	1,998,052R	.....
285,512,153	287,474,822	289,305,313	292,045,178	12,780,952	.....
17,759,205	16,068,919	17,133,937	13,932,421	5,438,418	.....
303,271,358	303,543,741	306,439,250	305,977,599	18,219,370	.....
5,065.15	5,117.54	5,151.60	5,156.98	225.89	.....
$80,426,296	$71,393,174	$72,371,894	$63,019,957	$34,066,560R	35.09R
58,839,071	52,019,283	53,188,639	46,428,030	21,573,657R	31.73R
14,955,528	13,065,377	12,132,623	10,538,341	10,718,736R	50.42R
1,523,180	1,617,120	1,773,381	1,692,088	.....	.....
2,527,955	2,309,711	2,627,742	1,942,017	.....	.....
2,580,562	2,381,683	2,649,509	2,419,481	.....	.....
$64,330,235	$55,966,059	$53,431,589	$49,685,460	$21,016,310R	29.73R
13,229,875	10,935,260	10,181,059	9,787,465	.....	.....
16,842,646	14,812,873	13,874,060	12,513,108	.....	.....
1,983,340	2,125,845	1,991,845	2,015,054	.....	.....
29,539,992	25,403,746	24,667,140	22,643,245	.....	.....
2,139,332	2,160,249	2,095,193	2,099,810	.....	.....
595,050	588,086	662,292	626,778	.....	.....
79.99	78.39	73.83	78.84	.....	.....
$16,096,061	$15,427,115	$18,940,305	$13,334,497	$13,050,250R	49.46R
6,050,000	5,800,000	6,240,000	5,525,000	.....	.....
58,566	40,666	45,793	29,851	.....	.....
9,987,495	9,586,449	12,654,512	7,779,646	.....	.....
326,527	280,468	164,449	557,377R	.....	.....
42,688R	28,447	55,246	19,035	.....	.....
10,271,334	9,895,364	12,874,207	7,241,304R	10,344,503R	58.82R
3.70	3.52	4.55	2.54	3.96R	60.92R
3.60	3.44	4.45	2.48	.....	.....
3.39	3.26	4.20	2.37	.....	.....

[fol. 2081]

Atla

Property Investmen

	1926	
1. Property Investment as at End of Year:		
2. Investment in Road and Equipment (Account 701)	$88,419,031.57	$
3. Material and Supplies (Account 716)	3,418,989.17	
4. Total	91,838,020.74	
5. Cash	3,338,143.18	
6. Grand Total	95,176,163.92*	
7. Operating Income Account:		
8. Average Mileage Operated	1,880.46	
9. Total Operating Revenues	$30,330,194.04	$
10. Freight (Account 101)	21,0[illegible]014.55	
11. Passenger (Account 102)	5,955,199.64	
12. Mail (Account 106)	397,745.73	
13. Express (Account 107)	1,079,753.62	
14. All other Revenues	1,294,480.50	
15. Total Operating Expenses	$22,087,233.09	$
16. Maintenance of Way and Structures	4,067,116.63	
17. Maintenance of Equipment	5,785,309.41	
18. Traffic	586,741.26	
19. Transportation	10,768,303.13	
20. General	640,331.87	
21. All other Expenses	239,430.79	
22. Operating Ratio—Per cent	72.82	
23. Net Operating Revenue	$8,242,960.95	
24. Railway Tax Accruals	2,272,103.76	
25. Uncollectible Railway Revenues	10,720.86	
26. Railway Operating Income	$5,960,136.33	
27. Hire of Equipment—Net Balance	$659,989.93R	
28. Joint Facility Rents—Net Balance	148,819.62R	
29. Net Railway Operating Income	$5,151,326.78	
30. Rate of Return on:		
31. Investment in Road and Equipment—Per cent	5.83	
32. Investment in Road and Equipment—Incl. M. & S.	5.61	
33. Investment in Road and Equipment—Inc. M. & S. & Cash	5.41	

Wilmington, N. C., June 5th, 1931-1. "R

NOTE: The investment used on line 2 of this exhibit is based on the tentativ
the Interstate Commerce Commission, Valuation Section, to which has been added

EXHIBIT No. 79

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

tment and Operating Income Account, State of Florida

1927	1928	1929	1930	Increase or decrease 1930 over 1926	Per cent of increase or decrease
$90,558,415.21	$91,735,345.27	$92,783,587.42	$94,512,182.59	$6,093,151.02	6.89
3,221,709.46	2,658,091.94	2,573,857.03	2,678,655.89	.....	.....
93,780,124.67	94,393,437.21	95,357,444.45	97,190,838.48	.....	.....
7,053,956.23	6,459,705.44	6,904,976.61	5,568,788.75	.....	.....
100,834,080.90	100,853,142.65	102,262,421.06	102,759,627.23	7,583,463.31	7.97
1,985.70	2,022.37	2,055.40	2,061.38	180.92	9.62
$22,180,597.92	$18,107,653.51	$18,610,308.72	$16,334,490.05	$13,995,703.99R	46.14R
16,163,617.95	12,986,975.47	13,489,212.07	11,960,371.20	9,642,643.35R	44.64R
3,583,454.38	2,801,559.74	2,479,252.45	2,105,892.97	3,849,306.67R	64.64R
374,767.91	401,397.57	439,408.30	431,819.21	34,073.48	8.57
992,216.45	913,178.41	1,048,357.66	777,134.49	302,619.13R	28.03R
1,066,541.23	1,004,542.32	1,154,078.24	1,059,272.18	235,208.32R	18.17R
$17,741,635.48	$14,101,671.51	$13,739,933.06	$12,878,471.23	$9,208,761.86R	41.69R
3,648,667.30	2,773,509.92	2,618,059.20	2,536,910.89	1,530,205.74R	37.62R
4,645,033.21	3,756,988.04	3,567,714.61	3,243,397.51	2,541,911.90R	43.94R
546,985.29	539,177.94	512,202.93	522,302.03	64,439.23R	10.98R
8,146,834.40	6,443,152.21	6,343,155.05	5,869,129.08	4,899,174.05R	45.50R
590,006.48	532,686.08	538,778.94	544,270.66	96,061.21R	15.00R
164,108.80	149,156.42	160,022.33	162,461.06	76,969.73R	32.15R
80.00	78.39	73.83	78.84	6.02	8.27
$1,438,962.44	$3,912,982.00	$4,870,375.66	$3,456,018.82	$4,786,942.13R	58.07R
2,072,726.23	2,028,162.18	2,317,632.38	2,051,985.00	220,118.76R	9.69R
28,678.52	25,294.95	30,321.84	20,871.02	10,150.16	94.68
$2,337,557.69	$1,859,524.87	$2,522,421.44	$1,383,162.80	$4,576,973.53R	76.79R
R 100,668.12	83,404.16	50,630.94	169,790.71R	490,199.22	.....
R 134,467.53R	75,988.64R	88,907.28R	9,450.44R	139,369.18	.....
$2,303,758.28	$1,866,940.39	$2,484,145.10	$1,203,921.65	$3,947,405.13R	76.63R
2.54	2.04	2.68	1.27	.....	.....
2.46	1.98	2.61	1.24	.....	.....
2.28	1.85	2.43	1.17	.....	.....

"R" Denotes Red Figures.

tative valuation of Atlantic Coast Line Railroad properties in the State of Florida as of July 1, 1917, as found by added the actual expenditures for additions and betterments subsequent thereto as made in each year.

[fol. 2082]

Atlantic

Statement of Logs

System

	Number of Cars (1)	Number of Tons (2)	Revenue (3)
1926—Logs(*)	79,114	2,196,971	
—Total	944,101	27,025,422	
1927—Logs(*)	78,532	2,056,593	Not Available
—Total	839,049	23,134,496	
1928—Logs	51,801	1,422,874	$997,139
—Total	752,778	20,402,922	52,019,283
1929—Logs	37,206	949,840	794,334
—Total	718,549	18,951,802	53,188,639
1930—Logs	25,738	667,612	615,393
—Total	621,232	16,784,331	46,428,030
Total Logs	272,391	7,293,890	$2,406,866
Grand Total all Traffic	3,875,709	106,298,973	$151,635,952

Wilmington, N. C., June 5th, 1931-1.

(*) No

[fol. 2083]

Atlantic

Statement of Freight

A Comparison Between Fl

Entire system excluding Florida

	Interstate	Intrastate	Total
Revenue			
1926	$38,348,411.96	$8,050,260.89	$46,398,672.
1927	34,838,129.29	7,837,324.22	42,675,453.
Decrease 1927 vs. 1926	3,510,282.67	212,936.67	3,723,219.
1928	31,753,859.80	7,278,447.67	39,032,307.
Decrease 1928 vs. 1926	6,594,552.16	771,813.22	7,366,365.
1929	33,305,581.31	6,393,845.24	39,699,425.
Decrease 1929 vs. 1926	5,042,830.65	1,656,415.65	6,699,246.
1930	28,541,399.79	5,926,259.39	34,467,659.
Decrease 1930 vs. 1926	9,807,012.17	2,124,001.50	11,931,013.
Revenue tons			
1926	24,986,590	5,047,577	30,034,1
1927	21,592,458	5,199,042	26,791,5

EXHIBIT No. 80

I. C. C. Docket #18364

Witness: Geo. W. Lamb

antic Coast Line Railroad Company

Logs Handled and Revenue Derived Therefrom

	Ratio of Logs to Total Traffic			Florida		Ratio of Logs to Total Traffic		Ratio of Florida to System	
ue	Cars (4)	Tons (5)	Revenue (6)	Number of Cars (7)	Number of Tons (8)	Cars (9)	Tons (10)	Cars (11)	Tons (12)
	8.4%	8.1%(*)	.....	36,799	1,214,361	7.9%	8.0%	46.51%	55.27%
				466,071	15,111,117				
t									
ble	9.4%	8.9%(*)	.....	35,415	1,052,927	9.9%	9.6%	45.10%	51.20%
				356,795	10,982,964				
7,139	6.9%	7.0%	1.9%	27,119	814,777	9.4%	9.4%	52.35%	57.26%
9,283				289,984	8,622,556				
4,334	5.2%	5.0%	1.5%	13,207	366,426	4.5%	4.3%	35.50%	38.58%
8,639				293,902	8,547,924				
5,393	4.1%	4.0%	1.3%	9,376	272,150	3.7%	3.6%	36.43%	40.76%
8,030				254,078	7,660,058				
5,866	7.0%	6.9%	1.6%	421,916	3,720,641	7.3%	7.3%	.....	.....
5,952				1,660,830	50,924,619				

(*) NOTE: Years 1926 and 1927 include posts, poles and cordwood.

EXHIBIT No. 81

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

antic Coast Line Railroad Company

ight Revenues (Account 101) and Revenue Tons

en Florida and the Entire System, Excluding Florida

	Percent of decrease as compared with year 1926		Florida			Percent of decrease as compared with year 1926	
al	Interstate	Intrastate	Interstate	Intrastate	Total	Interstate	Intrastate
672.85			$11,305,416.29	$10,297,598.26	$21,603,014.55		
453.51			8,393,973.03	7,769,644.92	16,163,617.95		
219.34	9.15	2.65	2,911,443.26	2,527,953.34	5,439,396.60	25.75	24.55
307.47			7,047,000.47	5,939,975.00	12,986,975.47		
365.38	17.20	9.59	4,258,415.82	4,357,623.26	8,616,039.08	37.67	42.32
426.55			8,075,641.74	5,413,570.33	13,489,212.07		
246.30	13.15	20.58	3,229,774.55	4,884,027.93	8,113,802.48	28.57	47.43
559.18			7,108,188.05	4,852,183.15	11,960,371.20		
013.67	25.57	26.38	4,197,228.24	5,445,415.11	10,642,643.35	37.13	52.88
34,167			7,088,891	8,022,226	15,111,117		
01,500			4,458,639	6,524,325	10,982,964		

Decrease 1930 vs. 1926	9,807,012.17	2,124,001.50	11,931,013.67	2
Revenue tons				
1926	24,986,590	5,047,577	30,034,167	
1927	21,592,458	5,199,042	26,791,500	
Decrease 1927 vs. 1926	3,394,132	151,465X	3,242,667	1
1928	20,035,159	5,023,231	25,058,390	
Decrease 1928 vs. 1926	4,951,431	24,346	4,975,777	1
1929	20,086,015	4,126,631	24,212,646	
Decrease 1929 vs. 1926	4,900,575	920,946	5,821,521	1
1930	17,154,945	3,792,975	20,947,920	
Decrease 1930 vs. 1926	7,831,645	1,254,602	9,086,247	3

Wilmington, N. C., June 3rd, 1931-1.

Note: "X" denotes increase.

25.57	26.38	4,197,228.24	5,445,415.11	10,642,643.35	37.13	52.88
		7,088,891	8,022,226	15,111,117		
		4,458,639	6,524,325	10,982,964		
13.58	3.00X	2,630,252	1,497,901	4,128,153	37.10	18.67
		4,000,693	4,621,863	8,622,556		
19.82	0.48	3,088,198	3,400,363	6,488,561	43.56	42.39
		4,418,535	4,129,389	8,547,924		
19.61	18.25	2,670,356	3,892,837	6,563,193	37.67	48.53
		4,183,159	3,476,899	7,660,058		
31.34	24.86	2,905,732	4,545,327	7,451,059	40.99	56.66

[fol. 2084]

I.

Statement Showing Density
Southern Florida For Cale

1. Average number of miles	
2. Passenger	
3. Freight	
4. Average number of miles operated:	
5. Passenger	
6. Freight	
7. Revenue Passenger Mile	
8. Total number (thousand	
9. Average per mile of road	
10. Average per mile of main	
11. Revenue Ton-Miles:	
12. Total number (thousand	
13. Average per mile of road	
14. Average per mile of main	

NOTE: (1) Northern Florida
Junction line of
River-Junction-P
Company.
(2) Southern Florida.

Source: Statement No. 28
on replies to order of the I. C

EXHIBIT No. 82

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

ity of Traffic For Northern Florida Compared With
alendar Year 1927

	Northern Florida (1)	Southern Florida (2)	Percentage Southern Florida to Northern Florida
es of rd. operated:			
	846.49	4,049.38	478.37
	894.54	4,183.01	467.62
les of main track			
	923.65	4,503.21	487.55
	970.34	4,636.84	477.86
iles:			
nds)	84,721	284,217	335.47
ad operated	100,085	70,188	70.13
in trk. operated	91,724	63,114	68.81
nds)	550,426	2,331,131	423.51
ad operated	615,318	557,286	90.57
in trk. operated	567,251	502,741	88.63

la. All points on and north of the Jacksonville-River
f the Seaboard Air Line Railway Company and the
Pensacola line of the Louisville & Nashville Railroad

la. All points south of aforesaid line.
8015 (File No. 18-B-1) issued by I. C. C., 1928, based
C. C. dated November 22, 1927, to Class I Railroads.

[fol. 2085]

EXHIBIT No. 83

I. C. C. Docket 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Traffic Density Statistics, State of Florida Compared with System and System Excluding Florida, Calendar Years 1921 to 1930 Inclusive

Year	System			State of Florida						System—Exclusive Florida				Pe F m s ex F
	Average miles operated (1)	Revenue ton miles (thous.) (2)	Tons 1 mile per mile of road (3)	Average miles operated (4)	Revenue ton miles (thous.) (5)	Tons 1 mile per mile of road (6)	Percent of Florida operated miles to system (7)	Percent of rev. ton miles Fla. to system (8)	Percent Fla. tons 1 mile per mile of road to system (9)	Average miles operated (10)	Revenue ton miles (thous.) (11)	Tons 1 mile per mile of road (12)	Percent of Fla. mileage operated to system excl. Florida (13)	
1921	4,814.67	2,479,340	514,955	1,798.97	613,722	341,152	37.4	24.8	66.2	3,015.70	1,865,618	618,635	59.7	
1922	4,852.21	3,031,173	624,700	1,821.66	745,106	409,026	37.5	24.6	65.[illegible]	3,030.55	2,286,067	754,341	60.1	
1923	4,857.39	3,712,154	764,228	1,827.00	936,346	512,505	37.6	25.2	67.[illegible]	3,030.39	2,775,808	915,990	60.3	
1924	4,862.39	3,763,631	774,029	1,833.20	1,045,992	570,583	37.7	27.8	73.7	3,029.19	2,717,639	897,150	60.5	
1925	4,890.49	4,440,361	907,958	1,843.85	1,365,616	740,633	37.7	30.8	81.6	3,046.64	3,074,745	1,009,225	60.5	
Average—5 years	4,855.43	3,485,334	717,822	1,824.94	941,356	515,828	37.6	26.6	70.7	3,030.49	2,543,975	839,460	60.2	
1926	4,931.09	4,751,444	963,569	1,880.46	1,634,892	869,411	38.1	34.4	90.2	3,050.63	3,116,553	1,021,610	61.6	
1927	5,065.15	3,787,301	747,717	1,985.70	1,133,700	570,932	39.2	29.9	76.4	3,079.45	2,653,601	861,713	64.5	
1928	5,117.54	3,313,824	647,542	2,022.37	894,383	442,245	39.5	27.0	68.3	3,095.17	2,419,441	781,682	65.3	
1929	5,151.60	3,281,770	637,039	2,055.40	822,164	400,002	39.9	25.1	62.8	3,096.20	2,459,606	794,395	66.4	
1930	5,156.98	2,871,257	556,771	2,061.38	762,668	369,979	40.0	26.6	66.5	3,095.60	2,008,589	648,395	66.6	
Average—5 years	5,084.47	3,601,119	708,258	2,001.06	1,049,561	524,503	39.3	28.6	72.8	3,083.41	2,531,558	821,025	64.9	

[fol. 2086]

EXHIBIT No. 83½

I. C. C. Docket 18364

Witness: Geo. W. Lamb

Seaboard Air Line Railway

L. R. Powell, Jr., and E. W. Smith, Receivers

Comparative Traffic Density Statistics—System and State of Florida 1921-1930

Year	System			State of Florida						System—Exclusive Florida				Pe Fl mi sy exc Fl (
	Average miles operated (1)	Revenue ton miles (thous.) (2)	Tons 1 mile per mile of road (3)	Average miles operated (4)	Revenue ton miles (thous.) (5)	Tons 1 mile per mile of road (6)	Percent of Florida operated miles to system (7)	Percent of rev. ton miles Fla. to system (8)	Percent Fla. tons 1 mile per mile of road to system (9)	Average miles operated (10)	Revenue ton miles (thous.) (11)	Tons 1 mile per mile of road (12)	Percent of Fla. mileage operated to system excl. Florida (13)	
1921	3,563.21	1,858,505	521,582	1,036.65	389,271	375,508	29.09	20.95	71.99	2,526.56	1,469,234	581,516	41.03	2
1922	3,576.11	2,250,338	629,270	1,023.77	575,462	562,101	28.63	25.57	89.33	2,552.34	1,674,876	656,212	40.11	3
1923	3,576.11	2,627,222	734,659	1,023.77	553,299	540,453	28.63	21.06	73.57	2,552.34	2,073,923	812,557	40.11	2
1924	3,571.19	2,782,272	779,088	1,019.44	678,784	665,840	28.55	24.40	85.46	2,551.75	2,103,489	824,332	39.95	3
1925	3,784.38	3,298,929	871,722	1,230.68	1,003,902	815,729	32.52	30.43	93.58	2,553.70	2,295,027	898,707	48.19	4
Average—5 years	3,614.20	2,563,453	709,273	1,066.86	640,144	600,026	29.52	24.97	84.60	2,547.34	1,923,309	755,026	41.88	3
1926	3,943.39	3,637,056	922,317	1,388.43	1,245,486	897,046	35.21	34.24	97.26	2,554.96	2,391,570	936,050	54.34	5
1927	4,291.35	3,391,224	790,246	1,736.39	808,544	465,647	40.46	23.84	58.92	2,544.96	2,582,680	1,010,849	68.23	3
1928	4,498.61	3,177,122	706,245	1,836.08	850,267	463,089	40.81	26.76	65.57	2,662.53	2,326,854	873,926	68.96	3
1929	4,490.38	3,195,455	711,622	1,834.94	847,571	461,907	40.86	26.52	64.91	2,655.44	2,347,884	884,179	69.10	3
1930	4,495.12	2,941,105	654,288	1,824.63	831,805	455,876	40.59	28.28	69.68	2,670.49	2,109,300	789,855	68.33	3
Average—5 years	4,343.77	3,268,392	747,828	1,724.09	961,735	531,721	39.69	28.22	71.10	2,619.68	2,351,657	897,689	65.81	4

EXHIBIT No. 83

I. C. C. Docket 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Traffic Density Statistics, State of Florida Compared with System and System Excluding Florida, Calendar Years 1921 to 1930 Inclusive

	System			State of Florida						System—Exclusive Florida					
	Average miles operated (1)	Revenue ton miles (thous.) (2)	Tons 1 mile per mile of road (3)	Average miles operated (4)	Revenue ton miles (thous.) (5)	Tons 1 mile per mile of road (6)	Percent of Florida operated miles to system (7)	Percent of rev. ton miles Fla. to system (8)	Percent Fla. tons 1 mile per mile of road to system (9)	Average miles operated (10)	Revenue ton miles (thous.) (11)	Tons 1 mile per mile of road (12)	Percent of Fla. mileage operated to system excl. Florida (13)	Percent of Fla. ton miles to system excluding Florida (14)	Percent of tons 1 mile per mile of road Fla. to system excl. Fla. (15)
....	4,814.67	2,479,340	514,955	1,798.97	613,722	341,152	37.4	24.8	66.2	3,015.70	1,865,618	618,635	59.7	32.9	55.1
....	4,852.21	3,031,173	624,700	1,821.66	745,106	409,026	37.5	24.6	65.5	3,030.55	2,286,067	754,341	60.1	32.6	54.2
....	4,857.39	3,712,154	764,228	1,827.00	936,346	512,505	37.6	25.2	67.1	3,030.39	2,775,808	915,990	60.3	33.7	56.0
....	4,862.39	3,763,631	774,029	1,833.20	1,045,992	570,583	37.7	27.8	73.7	3,029.19	2,717,639	897,150	60.5	38.5	63.6
....	4,890.49	4,440,361	907,958	1,843.85	1,365,616	740,633	37.7	30.8	81.6	3,046.64	3,074,745	1,009,225	60.5	44.4	73.4
....	4,855.43	3,485,334	717,822	1,824.94	941,356	515,828	37.6	26.6	70.7	3,030.49	2,543,975	839,460	60.2	37.0	61.4
....	4,931.09	4,751,444	963,569	1,880.46	1,634,892	869,411	38.1	34.4	90.2	3,050.63	3,116,553	1,021,610	61.6	52.5	85.1
....	5,065.15	3,787,301	747,717	1,985.70	1,133,700	570,932	39.2	29.9	76.4	3,079.45	2,653,601	861,713	64.5	42.7	66.3
....	5,117.54	3,313,824	647,542	2,022.37	894,383	442,245	39.5	27.0	68.3	3,095.17	2,419,441	781,682	65.3	37.0	56.6
....	5,151.60	3,281,770	637,039	2,055.40	822,164	400,002	39.9	25.1	62.8	3,096.20	2,459,606	794,395	66.4	33.4	50.4
....	5,156.98	2,871,257	556,771	2,061.38	762,668	369,979	40.0	26.6	66.5	3,095.60	2,008,589	648,395	66.6	38.0	57.0
....	5,084.47	3,601,119	708,258	2,001.06	1,049,561	524,503	39.3	28.6	72.8	3,083.41	2,531,558	821,025	64.9	41.5	63.9

EXHIBIT No. 83½

I. C. C. Docket 18364

Witness: Geo. W. Lamb

Seaboard Air Line Railway

L. R. Powell, Jr., and E. W. Smith, Receivers

Comparative Traffic Density Statistics—System and State of Florida 1921-1930

	System			State of Florida						System—Exclusive Florida					
	Average miles operated (1)	Revenue ton miles (thous.) (2)	Tons 1 mile per mile of road (3)	Average miles operated (4)	Revenue ton miles (thous.) (5)	Tons 1 mile per mile of road (6)	Percent of Florida operated miles to system (7)	Percent of rev. ton miles Fla. to system (8)	Percent Fla. tons 1 mile per mile of road to system (9)	Average miles operated (10)	Revenue ton miles (thous.) (11)	Tons 1 mile per mile of road (12)	Percent of Fla. mileage operated to system excl. Florida (13)	Percent of Fla. ton miles to system excluding Florida (14)	Percent of tons 1 mile per mile of road Fla. to system excl. Fla. (15)
..	3,563.21	1,858,505	521,582	1,036.65	389,271	375,508	29.09	20.95	71.99	2,526.56	1,469,234	581,516	41.03	26.49	64.57
..	3,576.11	2,250,338	629,270	1,023.77	575,462	562,101	28.63	25.57	89.33	2,552.34	1,674,876	656,212	40.11	34.36	85.66
...	3,576.11	2,627,222	734,659	1,023.77	553,299	540,453	28.63	21.06	73.57	2,552.34	2,073,923	812,557	40.11	26.68	66.51
...	3,571.19	2,782,272	779,088	1,019.44	678,784	665,840	28.55	24.40	85.46	2,551.75	2,103,489	824,332	39.95	32.27	80.77
..	3,784.38	3,298,929	871,722	1,230.68	1,003,902	815,729	32.52	30.43	93.58	2,553.70	2,295,027	898,707	48.19	43.74	90.77
..	3,614.20	2,563,453	709,273	1,066.86	640,144	600,026	29.52	24.97	84.60	2,547.34	1,923,309	755,026	41.88	33.28	79.47
..	3,943.39	3,637,056	922,317	1,388.43	1,245,486	897,046	35.21	34.24	97.26	2,554.96	2,391,570	936,050	54.34	52.08	95.83
..	4,291.35	3,391,224	790,246	1,736.39	808,544	465,647	40.46	27.84	58.92	2,544.96	2,582,680	1,010,849	68.23	31.31	46.06
..	4,498.61	3,177,122	706,245	1,836.08	850,267	463,089	40.81	26.76	65.57	2,662.53	2,326,854	873,926	68.96	36.54	52.99
..	4,490.38	3,195,455	711,622	1,834.94	847,571	461,907	40.86	26.52	64.91	2,655.44	2,347,884	884,179	69.10	36.10	52.24
..	4,495.12	2,941,105	654,288	1,824.63	831,805	455,876	40.59	28.28	69.68	2,670.49	2,109,300	789,855	68.33	39.44	57.72
..	4,343.77	3,268,392	747,828	1,724.09	961,735	531,721	39.69	28.22	71.10	2,619.68	2,351,657	897,689	65.81	40.90	59.23

[fol. 2087]

EXHIBIT No. 84

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

FREIGHT PROPORTION OF YARD ACCOUNTS AND OTHER ACCOUNTS ELIMINATED. YEAR ENDED DECEMBER 31, 1929

(202)	Roadway maintenance—yard	$55,476
(203)	Roadway—Depreciation—Yard	.....
(204)	Underground power tubes—Yard	.....
(205)	Underground power tubes—Depreciation—Yard	.....
(206)	Tunnels and subways—Yard	.....
(207)	Tunnels and subways—Depreciation—Yard	.....
(208)	Bridges, trestles & culverts—Yard	24,108
(209)	Bridges, trestles & culverts—Depreciation—Yard	.....
(210)	Elevated structures—Yard	.....
(211)	Elevated structures—Depreciation—Y	.....
(212)	Ties—Yard	285,489
(213)	Ties—Depreciation—Yard	.....
(214)	Rails—Yard	51,587
(215)	Rails—Depreciation—Yard	.....
(216)	Other track material—Yard	54,870
(217)	Other track material—Depreciation—Yard	.....
(218)	Ballast—Yard	8,969
(219)	Ballast—Depreciation—Yard	.....
(220)	Track laying and surfacing—Yard	338,231
(221)	Right-of-way fences—Yard	727
(222)	Right-of-way fences—Depreciation—Yard	.....
(223)	Snow & sand fences & snowsheds—Yard	.....
(224)	Snow & sand fences & snowsheds—Depreciation—Yard	.....
(225)	Crossings and signs—Yard	30,498
(226)	Crossings and signs—Depreciation—Yard	.....
(278)	Maintaining joint tracks yards & other facilities—Dr.	73,840
(279)	Maintaining joint tracks yards & other facilities—Cr.	249,378
(377)	Yardmasters and yard clerks	866,496
(378)	Yard conductors and brakemen	1,234,111
(379)	Yard switch and signal tenders	24,853
(380)	Yard enginemen	861,178
(381)	Yard motormen	.....
(382)	Fuel for yard locomotives	613,207
(383)	Yard switching power produced	.....
(384)	Yard switching power purchased	.....
(385)	Water for yard locomotives	24,562
(386)	Lubricants for yard locomotives	7,998
(387)	Other supplies for yard locomotives	10,109
(388)	Enginehouse expenses—Yard	233,346
(389)	Yard supplies and expenses	59,486
(390)	Operating joint yards & terminals—Dr.	117,324
(391)	Operating joint yards and terminals—Cr.	176,688
	Total Yard Accounts	$4,550,039

[fol. 2088]

	Total Yard Accounts—Brought Forward		$4,550,039
(201)	Superintendence—(proportion)	$62,577.95	
(241)	Wharves and Docks	135,980.07	
(267)	Paving	1,825.26	
(273)	Assessment for Public Improvements	10,681.14	
(323)	Floating Equipment	29,434.59	
(324)	Floating Equipment—Depreciation	4,046.04	
(329)	Miscellaneous Equipment—Repairs	415.83	
(330)	Miscellaneous Equipment—Depreciation	267.37	
(351)	Superintendence—Traffic	456,246.73	
(352)	Outside Agencies	488,739.58	
(353)	Advertising	4,578.80	
(354)	Traffic Associations	46,802.39	
(356)	Industrial and Immigration Bureaus	16,637.06	
(373)	Station Employees	3,281,352.20	
(376)	Station Supplies and Expenses	126,351.55	
	Total Other Accounts		$4,665,936
	Total Accounts Eliminated		$9,215,975
	*Add proportion General Expenses (4.4897%)		413,769
	Grand Total Eliminated		$9,629,744
	Total Operating Expenses—Freight	$36,308,813	
	Less Eliminated Accounts	9,629,744	
	Total Haulage Expenses Used	26,679,069	
	Deduct "Out-of-Pocket Expenses"	6,920,684	
			$19,758,385
	"Out of Pocket Expenses":		
(401)	Trainmen	$2,048,715	
(392)	Train Enginemen	1,571,324	
(394)	Fuel for Train Locomotives	2,281,332	
(397)	Water for Train Locomotives	96,575	
(398)	Lubricants for Train Locomotives	42,283	
(399)	Other Supplies for Train Locomotives	29,281	
(400)	Engine-house Expenses—Train	450,414	
(402)	Train Supplies Expenses	400,760	
	Total Out of Pocket Expenses	$6,920,684	
	Ratio to Haulage Expenses Used	35.027%	
	*Total Operating Expenses—Freight	$36,308,813	
	Total General Expenses	1,560,126	
	Total Expenses Less General Expenses	$34,748,687	
	Percentage of General Expenses to Total	4.4897%	
	Proportion of General Expenses	$413,769	

[fol. 2089]

EXHIBIT No. 85

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Statement Showing Method of Assigning Taxes and 5-¾% Return on Investment

Taxes

Page 312, Schedule 350, "Taxes on Railway Property," Annual Report to I. C. C. Dec. 31, 1929

Line No.			
1.	Virginia		$190,188.21
2/3	North Carolina		1,431,494.96
4/5	South Carolina		1,038,272.01
6.	Georgia		705,047.52
7.	Florida	$2,115,155.97	
10.	" Outside Agencies	104.79	2,115,260.76
8.	Alabama		189,407.37
9.	District of Columbia		34.00
11.	Louisiana		12.05
12.	Massachusetts		14.00
13.	Missouri		5.39
14.	New York		25.50
15.	Ohio		3.24
16.	Tennessee		159.22
20.	Total		$5,669,924.23
	U. S. Government Taxes:		
30.	Corporation Income		570,075.77
50.	Grand Total		$6,240,000.00

		Percent
Page 301, Schedule 300-I I. C. C. Report Line 4, "Ner Revenue from Railway Operation	$18,940,305.33	
Line 80, Page 312, Schedule 350, Corporate Income Tax	570,075.77	3.00985%
Line 247, Page 707, Report to Florida Railroad Commission Grand Total Railway Operating Expenses	$13,739,933.06	
Page 312, Schedule 350, Lines 7 and 10, I. C. C. Report, Florida Taxes	2,115,260.76	15.3950%

5-3/4% Return On Investment:

1.	Property Investment, Dec. 31, 1929, Line 6, Exhibit #—	$306,439,250
2.	Total Operating Expenses (P. 309 Line 247 I. C. C. Report)	53,431,589
3.	Assignable to Freight (P. 309, Line 247, Cols. C. & E.)	36,308,813
4.	Freight percentage of Total Operating Expenses (3÷2)	67.95%
5.	5¾% on Investment 1 x 5¾%	17,620,257
6.	Freight Proportion (5 x 4)	11,972,965
7.	Ratio to Freight Operating Expenses (6÷3)	32.97536%

Wilmington, N. C., June 5th, 1931-1.

[fol. 2090] EXHIBIT No. 86

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

	"A"	"B"	So-called Cummer Scale
Average Haul:			
1. Miles	81.36		
2. Average Revenue per Car			$15.12
3. Average Billing Weight—pounds	56,754		
4. Average Tare Weight—pounds	33,000		
5. Average Tare Weight—Empty Haul —lbs.	33,000		
6. Gross Weight—pounds	122,754		
7. Gross Tons	61.377		
8. Gross ton-miles—7x1	4,994		
9. Out of pocket expenses per gross ton-mile		.0882888¢	
10. Out of pocket expenses per gross ton-mile (100%)	.252059¢*a*	.374912¢*b*	
11. Operating Costs—8x10	$12.59	$18.72	
12. Income Taxes—3.00985% of 2—11*	.08	x	
13. Florida Taxes—15.3950% of 11*	1.93	2.88	
14. Operating expenses—Taxes—11 plus 12 plus 13	14.60	21.60	
15. 5¾% Return on Investment—11x 32.97536%	4.15	6.17	
16. Total Cost including Return on Invest.	18.75	27.77	

* See Exhibit No. —

NOTE: *a* Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only
b Item 9 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2091] EXHIBIT No. 87

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Loaded and Empty Car-Mile

	"A"	"B"	So-called Cummer Scale
Average Haul:			
1. Miles		81.36	
2. Average Revenue per Car			$15.12
3. Empty Haul—Miles		81.36	
4. Total Car Miles—1 plus 3		162.72	
5. Out of pocket expenses per loaded and empty car-mile		2.95176c	
6. Out of pocket expenses per loaded and empty car mile (100%)	8.4271c*a*	12.5344c*b*	
7. Operating Costs—4x6	$13.74	$20.43	
8. Income Taxes—3.00985% of 2—7* (A $8.28, B $5.36), ($1.38)	.04		
9. Florida Taxes—15.3950% of 7*	2.12	3.14	
10. Operating Expenses—Taxes—7 plus 8 plus 9	15.90	23.57	
11. 5¾% Return on Investment—7x 32.97536%	4.53	6.74	
12. Total Cost including Return on Invest.	20.43	30.31	

*See Exhibit No. —

NOTE: *a* Item 5 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 5 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 6 "A" and "B" respectively.

[fol. 2092] EXHIBIT No. 88

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

	"A"		"B"	So-called Cummer Scale
From: Perry to Eastport:				
1. Miles		169.00		
2. Average Revenue per Car				$22.10
3. Average Billing Weight—pounds		59,743		
4. Average Tare Weight—pounds		33,000		
5. Average Tare Weight—Empty Haul—lbs.		33,000		
6. Gross Weight—pounds		125,743		
7. Gross Tons		62,871		
8. Gross ton-miles—7x1		10,625		
9. Out of pocket expenses per gross ton-mile			.0882888¢	
10. Out of pocket expenses per gross ton-mile (100%)	.252059¢a		.374912¢b	
11. Operating Costs—8x10	$26.78		$39.83	
12. Income Taxes—3.00985% of 2—11*	x		x	
13. Florida Taxes—15.3950% of 11*	4.12		6.12	
14. Operating expenses—Taxes—11 plus 12 plus 13	30.90		45.95	
15. 5¾% Return on Investment—11x 32.97536%	8.83		13.13	
16. Total Cost including Return on Invest.	39.73		59.08	

*See Exhibit No. —

NOTE: *a* Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 9 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2093] EXHIBIT No. 89

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

	"A"	"B"	So-called Cummer Scale
From: Carbur to Eastport:			
1. Miles	152.00		
2. Average Revenue per Car			$20.30
3. Average Billing Weight—pounds	59,717		
4. Average Tare Weight—pounds	33,000		
5. Average Tare Weight—Empty Haul —lbs.	33,000		
6. Gross Weight—pounds	125,717		
7. Gross Tons	62,858		
8. Gross ton miles—7x1	9,554		
9. Out of pocket expenses per gross ton-mile		.0882888¢	
10. Out of pocket expenses per gross ton-mile (100%)	.252059¢a	.374912¢b	
11. Operating Costs—8x10	$24.08	$35.82	
12. Income Taxes—3.00985% of 2—11* ($12.29)			
13. Florida Taxes—15.3950% of 11*	3.71	5.51	
14. Operating expenses—Taxes—11 plus 12 plus 13	27.79	41.33	
15. 5¾% Return on Investment 11x 32.97536%	7.94	11.81	
16. Total Cost including Return on Invest.	35.73	53.14	

* See Exhibit No. —

NOTE: a Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 9 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2094]

EXHIBIT No. 90

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

	"A"	"B"	So-called Cummer Scale
From: Homosassa to Perry:			
1. Miles	130.00		
2. Average Revenue per car			$20.62
3. Average Billing Weight—pounds	64,179		
4. Average Tare Weight—pounds	33,000		
5. Average Tare Weight—Empty Haul —lbs.	33,000		
6. Gross Weight—pounds	130,179		
7. Gross Tons	65,089		
8. Gross ton-miles—7x1	8,462		
9. Out of pocket expenses per gross ton-mile		.0882888¢	
10. Out of pocket expenses per gross ton-mile (100%)	.252059¢*a*	.374912¢*b*	
11. Operating Costs—8x10	$21.33	$31.73	
12. Income Taxes—3.00985% of 2—11* (A $16.56, B $5.91)	x	x	
13. Florida Taxes—15.3950% of 11*	3.28	4.88	
14. Operating expenses—taxes 11 plus 12 plus 13	24.61	36.61	
15. 5¾% Return on Investment—11x 32.97536%	7.03	10.46	
16. Total Cost including Return on Invest.	31.64	47.07	

*See Exhibit No. —

NOTE: *a* Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 9 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2095]

EXHIBIT No. 91

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

From: Hines to Palatka:	"A"	"B"	So-called Cummer Scale
1. Miles	119.00		
2. Average Revenue per Car			$19.96
3. Average Billing Weight—pounds	62,325		
4. Average Tare Weight—pounds	33,000		
5. Average Tare Weight—Empty Haul —lbs.	33,000		
6. Gross Weight—pounds	128,325		
7. Gross tons	64.162		
8. Gross ton-miles—7x1	7,635		
9. Out of pocket expenses per gross ton-mile		.0882888¢	
10. Out of pocket expenses per gross ton-mile (100%)	.252059¢*a*	.374912¢*b*	
11. Operating Costs—8x10	$19.24	$28.62	
12. Income Taxes—3.00985% of 2—11* (A $14.56, B $4.96)	x	x	
13. Florida Taxes—15.3950% of 11*	2.96	4.41	
14. Operating Expenses—Taxes—11 plus 12 plus 13	22.20	32.03	
15. 5¾% Return on Investment—11x 32.97536%	6.34	9.44	
16. Total Cost including Return on Invest.	28.54	41.47	

*See Exhibit No. —

NOTE: *a* Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 9 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2096]

EXHIBIT No. 92

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

	"A"	"B"	So-called Cummer Scale
From: Astor to Groveland:			
1. Miles	99.00		
2. Average Revenue per Car			$13.78
3. Average Billing Weight—pounds	49,983		
4. Average Tare Weight—pounds	33,000		
5. Average Tare Weight—Empty Haul —lbs.	33,000		
6. Gross Weight—pounds	115,983		
7. Gross Tons	57,991		
8. Gross ton-miles—7x1	5,741		
9. Out of pocket expenses per gross ton-mile		.0882888¢	
10. Out of pocket expenses per gross ton-mile (100%)	.252059¢a	.374912¢b	
11. Operating Costs—8x10	$14.47	$21.62	
12. Income Taxes—3.00985% of 2—11* (A $10.44, B $3.22)	x	x	
13. Florida Taxes—15.3950% of 11*	2.27	3.33	
14. Operating Expenses—Taxes—11 plus 12 plus 13	16.74	24.95	
15. 5¾% Return on Investment—11x 32.97536%	4.77	7.13	
16. Total Cost including Return on Invest.	21.51	32.08	

*See Exhibit No. —

NOTE: *a* Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 9 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2097] EXHIBIT No. 93

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

From Homasassa to Lacoochee:	"A"	"B"	So-called Cummer Scale
1. Miles	68.00		
2. Average revenue per Car			$12.44
3. Average Billing Weight—pounds	51,320		
4. Average Tare Weight—pounds	33,000		
5. Average Tare Weight—Empty Haul—pounds	33,000		
6. Gross Weight—pounds	117,320		
7. Gross Tons	58.66		
8. Gross ton miles—7x1	3,989		
9. Out of pocket expenses per gross ton mi		.0882888¢	
10. Out of pocket expenses per gross ton mi. (100%)	.252059¢ *a*	.374912¢ *b*	
11. Operating Costs—8x10	$10.05	$14.96	
12. Income Taxes—3.00985% of 2-11# ($2.39) (A $8.74, B $3.72)	.07		
13. Florida Taxes—15.3950% of 11#	1.54	2.30	
14. Operating Expenses—Taxes—11 plus 12 plus 13	11.66	17.26	
15. 5-3/4% Return on Investment—11x32.97536%	3.30	4.93	
16. Total Cost including Return on Investment	14.96	22.19	

See Exhibit No. —

NOTE: *a* Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 9 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2098]

EXHIBIT No. 94

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Gross Ton-Mile

	"A"	"B"	So-called Cummer Scale
From Homosassa to Otter Creek:			
1. Miles	52.00		
2. Average Revenue per Car			$12.02
3. Average Billing Weight—pounds	56,053		
4. Average Tare Weight—pounds	33,000		
5. Average Tare Weight—Empty Haul —pounds	33,000		
6. Gross Weight—pounds	122,053		
7. Gross Tons	61,027		
8. Gross ton miles—7x1	3,173		
9. Out of pocket expenses per gross ton mi		.0882888¢	
10. Out of pocket expenses per gross ton mile (100%)	.252059¢ *a*	.374912¢ *b*	
11. Operating Costs—8x10	$8.00	$11.90	
12. Income Taxes—3.06985% of 2-11* ($4.02) (A $14.52, B $10.53)	.12		
13. Florida Taxes—15.3950% of 11*	1.23	1.83	
14. Operating Expenses—Taxes—11 plus 12 plus 13	9.35	13.73	
15. 5-3/4% Return on Investment—14x 32.97536%	2.64	3.92	
16. Total Cost including Return on Invest.	11.99	17.65	

* See Exhibit No. —

NOTE: *a* Item 9 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 9 "B" equals 23.5492% of Total Freight Expenses,
Raised to 100% on line 10 "A" and "B" respectively.

[fol. 2099]

EXHIBIT No. 95

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Loaded and Empty Car Mile

	"A"		"B"	So-called Cummer Scale
From Perry to Eastport:				
1. Miles		169.00		
2. Average Revenue per Car				$22.10
3. Empty Haul—Miles		169		
4. Total Haul—1 plus 3		338		
5. Out of pocket expenses per loaded and empty car mile			2.95176¢	
6. Out of pocket expenses per loaded and empty car mile (100%)	8.4271¢ *a*		12.5344¢ *b*	
7. Operating Costs—4x6	$28.48		$42.37	
8. Income Taxes—3.00985% of 2-7# (A $1.17)				
9. Florida Taxes—15.3950% of 7#	4.38		6.51	
10. Operating Expenses—Taxes—7 plus 8 plus 9	32.86		48.88	
11. 5-3/4% Return on Investment 7x 32.97536%	9.39		13.97	
12. Total Cost including Return on Invest.	42.25		62.85	

#See Exhibit No. —

NOTE: *a* Item 5 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 5 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 6 "A" and "B" respectively.

[fol. 2100] EXHIBIT No. 96

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Loaded and Empty Car Mile

	"A"	"B"	So-called Cummer Scale
From Carbur to Eastport:			
1. Miles	152.00		
2. Average Revenue per Car			$20.30
3. Empty Haul Miles	152.00		
4. Total Car Miles 1 plus 3	304		
5. Out of pocket expenses per loaded and empty car mile		2.95176¢	
6. Out of pocket expenses per loaded and empty car mile (100%)	8.4271¢ *a*	12.5344¢ *b*	
7. Operating Costs 4x6	$25.61	$38.10	
8. Income Taxes 3.00985% of 2-7# (A $2.89)			
9. Florida Taxes 15.3950% of 7#	3.94	5.87	
10. Operating Expenses Taxes 7 plus 8 plus 9	29.55	43.97	
11. 5-3/4% Return on Investment 7x 32.97536%	8.44	12.56	
12. Total Cost including Return on Invest.	37.99	56.53	

See Exhibit No. —

NOTE: *a* Item 5 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 5 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 6 "A" and "B" respectively.

[fol. 2101] EXHIBIT No. 97

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Loaded and Empty Car-Mile

	"A"		"B"	So-called Cummer Scale
From Hines to Palatka:				
1. Miles		119.00		
2. Average Revenue per Car				$19.96
3. Empty Haul—Miles		119.00		
4. Total Car Miles—7x1		238		
5. Out of pocket expenses per loaded and empty car mile	*		1.95176¢	
6. Out of pocket expenses per loaded and empty car mile (100%)	8.4271¢a		12.5344¢b	
7. Operating Costs—4x6	$20.05		$29.83	
8. Income Taxes—3.00985% of 2—7* (A $7.73, B $3.45)				
9. Florida Taxes—15.3950% of 7*	3.08		4.59	
10. Operating Expenses—Taxes—7 plus 8 plus 9	23.13		34.42	
11. 5-3/4% Return on Investment—7x 32.97536%	6.60		9.84	
12. Total Cost including Return on Invest.	29.73		44.26	

*See Exhibit No. —

NOTE: *a* Item 5 "A" equals 35.027% of Total Freight Haulage Expenses only
b Item 5 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 6 "A" and "B" respectively.

fol. 2102] EXHIBIT No. 98

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Loaded and Empty Car-Mile

	"A"		"B"	So-called Cummer Scale
From Astor to Groveland:				
1. Miles		99.00		
2. Average Revenue per Car				$13.78
3. Empty Haul—Miles		99.00		
4. Total Car Miles—1 plus 3		198		
5. Out of pocket expenses per loaded and empty car mile			2.95176¢	
6. Out of pocket expenses per loaded and empty car mile (100%)	8.4271¢a		12.5344¢b	
7. Operating Costs—4x6	$16.69		$24.81	
8. Income Taxes—3.00985% of 2—7# (A $2.68)				
9. Florida Taxes—15.3950% of 7#	2.57		3.82	
10. Operating Expenses—Taxes—7 plus 8 plus 9	19.26		28.63	
11. 5-3/4% Return on Investments—7x 32.97536%	5.50		8.18	
12. Total Cost including Return on Invest.	24.76		36.81	

See Exhibit No. —

NOTE: *a* Item 5 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 5 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 6 "A" and "B" respectively.

[fol. 2103] EXHIBIT No. 99

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Estimated Cost of Handling Logs in Florida, Based On "Out-of-Pocket" Expenses Actually Assigned to the Third Division of the Atlantic Coast Line Railroad Company Operating Entirely Within the State of Florida.

Based On Cost Per Loaded and Empty Car-Mile

	"A"	"B"	So-called Cummer Scale
From Homosassa to Other Creek:			
1. Miles	52.00		
2. Average Revenue per Car			$12.02
3. Empty Haul—Miles	52.00		
4. Total Car Miles—1 plus 3	104		
5. Out of Pocket expenses per loaded and empty car mile		2.95176¢	
6. Out of pocket expenses per loaded and empty car mile (100%)	8.4271¢a	12.5344¢b	
7. Operating Costs—4x6	$8.76	$13.04	
8. Income Taxes—3.00985% of 2—7* (A $10.98, B $9.11) ... ($3.26)	.10		
9. Florida Taxes—15.3950% of 7*	1.35	2.01	
10. Operating expenses—Taxes—7 plus 8 plus 9	10.21	15.05	
11. 5-3/4% Return on Investment—7x 32.97536%	2.89	4.28	
12. Total Cost including Return on Invest.	13.10	19.33	

*See Exhibit No. —

NOTE: *a* Item 5 "A" equals 35.027% of Total Freight Haulage Expenses only.
b Item 5 "B" equals 23.5492% of Total Freight Expenses.
Raised to 100% on line 6 "A" and "B" respectively.

[fols. 2104–2329] BEFORE INTERSTATE COMMERCE COMMISSION

No. 18364

[Title omitted]

ORDER—July 7, 1931

Upon consideration of motion of intervener Wilson Lumber Company, made during the progress of the further hearing had on June 10, 11, and 12, 1931, that defendant be required to furnish information showing the number of cars of logs transported by it intrastate in Florida during the years 1926, 1927, and 1928, and the revenue received by it for such transportation:

It is ordered, That said motion be, and it is hereby, denied.

By the Commission.

George B. McGinty, Secretary. (Seal.)

[fol. 2330]

EXHIBIT No. 101

I. C. C. Docket 18364

Witness—Pettijohn.

Property Investment and Operating Income Account

Atlantic Coast Line Railroad Company, Florida East Coast Railway Company, and Seaboard Air Line Railway Company for Calendar Years 1921 to 19

	1921	1922	1923	1924	1925	1926	1927	1928	
1. Property Investment As At End of Year:									
2. Investment in Road and Equipment (Acct 701)	$453,136,288.94	$462,815,488.84	$489,231,726.92	$508,772,081.68	$547,225,669.64	$609,828,816.77	$622,133,412.60	$627,946,106.95	$63
3. Material and Supplies (Acct 716)	13,773,874.89	12,607,766.04	16,637,166.19	13,824,969.79	17,107,312.49	20,372,344.20	17,312,304.79	13,282,665.02	1
4. Total	466,910,163.83	475,423,254.88	505,868,893.11	522,597,051.47	564,332,982.13	630,201,160.97	639,445,717.39	641,228,771.97	64
5. Cash (Acct 708)	17,430,279.68	27,020,445.54	18,270,480.66	25,873,936.82	27,712,515.86	18,406,684.15	22,785,409.24	19,811,827.89	2
6. Grand Total	484,340,443.51	502,443,700.42	524,139,373.77	548,470,988.29	592,045,497.99	648,607,845.12	662,231,126.63	661,040,599.86	66
7. Operating Income Account:									
8. Average Mileage Operated—Miles	9,221.01	9,192.90	9,201.58	9,200.15	9,450.92	9,183.69	10,207.96	10,472.52	
9. Total Operating Revenues	$123,154,810.29	$129,930,017.79	$149,155,419.07	$155,277,904.65	$185,995,146.23	$193,538,830.50	$160,076,081.59	$142,513,104.28	$14
10. Freight (Acct 101)	81,590,967.00	88,854,367.08	102,564,775.19	107,535,965.93	124,601,255.73	134,021,439.71	116,136,418.04	103,598,323.76	10
11. Passenger (Acct 102)	30,551,907.38	28,579,395.59	32,940,399.38	33,284,835.85	44,949,405.15	42,249,799.64	29,638,970.73	25,382,711.20	2
12. Mail (Acct 106)	2,826,189.23	2,843,044.00	2,812,034.08	2,866,362.76	2,977,660.60	3,177,746.22	3,011,840.98	3,131,890.52	
13. Express (Acct 107)	3,375,258.86	5,224,765.98	5,647,623.75	6,114,424.93	6,158,742.30	6,330,479.25	5,412,856.40	5,037,716.86	
14. All Other Revenues	4,810,487.82	4,428,445.14	5,190,586.67	5,475,415.18	7,308,082.45	7,759,365.68	5,875,995.44	5,362,461.94	
15. Total Operating Expenses	$106,249,268.73	$97,688,157.03	$110,982,017.46	$114,992,855.57	$131,627,335.79	$140,361,370.53	$125,579,375.94	$108,758,229.82	$10
16. Maintenance of Way and Structures	17,865,756.22	15,956,566.09	19,733,835.68	21,483,471.93	23,525,136.45	26,908,258.98	24,771,968.77	20,272,611.13	1
17. Maintenance of Equipment	25,601,864.59	25,190,567.47	28,958,890.99	29,260,478.07	31,644,359.04	32,965,494.74	29,419,711.86	26,503,210.97	2
18. Traffic	2,778,168.74	2,916,058.59	3,181,123.19	3,457,211.02	4,215,632.75	4,669,503.51	4,926,102.45	4,926,560.76	
19. Transportation	55,371,938.50	48,886,100.64	54,014,241.38	55,516,886.33	66,182,017.25	69,913,361.51	59,690,710.19	50,888,369.13	4
20. General	3,781,823.69	3,932,726.53	4,145,675.87	4,273,741.15	4,427,039.53	5,068,614.91	5,273,987.43	4,864,297.20	
21. All Other Expenses	849,716.99	806,137.71	948,247.35	1,001,067.07	1,633,150.77	836,136.88	1,496,895.24	1,303,180.63	1
22. Operating Rates—Percent	85.32	74.34	72.82	72.43	70.62	71.87	78.78	74.87	
23. Net Operating Revenues	$16,905,541.56	$32,241,860.76	$38,173,401.61	$40,284,149.08	$54,367,810.44	$53,177,459.97	$34,496,705.65	$33,754,874.46	$3
24. Railway Tax Accruals	$5,742,505.35	$7,168,609.13	$8,981,522.28	$9,386,427.05	$11,131,979.62	$11,766,936.46	$11,218,470.78	$11,085,716.96	$1
25. Uncollectable Railway Revenues	105,316.19	91,733.87	58,941.31	83,501.54	51,584.51	55,761.07	108,681.91	100,857.36	
26. Railway Operating Income	$11,057,720.02	$24,981,517.76	$29,132,938.02	$30,814,220.49	$43,184,246.31	$41,354,762.44	$23,169,552.96	$22,568,300.14	$2
27. Hire of Equipment—Net Balance	$2,618,914.40R	$3,375,932.90R	$2,806,248.80R	$1,954,281.78R	$6,611,481.04R	$6,327,932.53R	$1,698,511.73R	$1,094,007.20R	$1
28. Joint Facility Rents—Net Balance	245,765.12R	259,385.43R	206,205.24R	255,724.55R	228,436.29R	259,364.91R	218,742.96R	96,893.28R	
29. Net Railway Operating Income	$8,193,040.50	$21,346,199.43	$26,620,483.98	$28,604,214.16	$36,344,328.98	$34,767,465.00	$21,252,298.27	$21,377,399.66	$2

R indicates red figures.

Authority: Annual Reports to Railroad Commission, State of Florida.

EXHIBIT No. 101

I. C. C. Docket 18364

Witness—Pettijohn.

Property Investment and Operating Income Account

Coast Line Railroad Company, Florida East Coast Railway Company, and Seaboard Air Line Railway Company for Calendar Years 1921 to 1930, Inc.

2	1923	1924	1925	1926	1927	1928	1929	1930	Increase or Decrease 1921 vs 1930 Amount	Percentage
488.84	$489,231,726.92	$508,772,081.18	$547,225,669.64	$609,828,816.77	$622,133,412.60	$627,946,106.95	$631,310,036.91	$634,425,121.45	$181,288,832.51	40.01
766.04	16,637,166.19	13,824,969.79	17,107,312.49	20,372,344.20	17,342,304.79	13,282,665.02	12,373,362.64	11,993,667.80	1,780,207.09R	12.92R
251.88	505,868,893.11	522,597,051.47	564,332,982.13	630,201,160.97	639,445,717.39	641,228,771.97	643,683,399.55	646,418,789.25	179,508,625.42	38.44
445.54	18,270,480.66	25,873,936.82	27,712,515.86	18,406,684.15	22,785,409.24	19,811,827.89	20,012,309.98	17,801,532.53	371,252.85	2.13
700.42	524,139,373.77	548,470,988.29	592,045,497.99	648,607,845.12	662,231,126.63	661,040,599.86	663,695,709.53	664,220,321.78	179,879,878.27	37.14
192.90	9,201.58	9,200.15	9,450.92	9,183.69	10,207.96	10,472.52	10,496.70	10,515.47	1,294.46	14.04
017.79	$149,155,419.07	$155,277,004.65	$185,995,146.23	$193,538,830.50	$160,076,081.59	$142,513,104.28	$143,969,817.21	$124,428,816.71	$1,274,006.42	1.03
367.08	102,564,775.19	107,535,965.93	124,601,255.73	134,021,439.71	116,136,418.04	103,598,323.76	105,423,365.87	92,193,899.95	10,602,932.95	13.00
395.59	32,940,399.38	33,284,835.85	44,949,405.15	42,249,799.64	29,638,970.73	25,382,711.26	23,408,608.18	19,741,067.36	10,810,840.02R	35.39R
044.00	2,812,034.08	2,866,362.76	2,977,660.60	3,177,746.22	3,011,840.98	3,131,890.52	3,876,619.14	3,248,824.79	422,635.56	14.95
765.98	5,647,623.75	6,114,424.93	6,158,742.30	6,330,479.25	5,412,856.40	5,037,716.86	5,701,121.05	4,186,971.91	811,713.05	24.02
445.14	5,190,586.67	5,475,415.18	7,308,082.45	7,759,365.68	5,875,995.44	5,362,461.94	5,560,102.97	5,058,052.70	247,564.88	5.15
157.03	$110,982,017.46	$114,992,855.57	$131,627,335.79	$140,361,370.53	$125,579,375.94	$108,758,229.82	$105,456,811.82	$97,949,538.57	$8,299,730.16R	7.81R
566.09	19,733,835.68	21,483,471.93	23,525,136.45	26,908,258.98	24,771,968.77	20,272,611.13	19,700,864.97	18,686,231.92	820,475.70	4.59
567.47	28,958,890.99	29,260,478.07	31,644,359.04	32,965,494.74	29,419,711.86	26,503,210.97	26,361,039.27	24,055,464.91	1,546,399.68R	6.04R
058.59	3,181,123.19	3,457,211.02	4,215,632.75	4,669,503.51	4,926,102.45	4,926,560.76	4,723,906.96	4,715,829.96	1,938,881.22	69.75
100.64	54,014,244.38	55,516,886.33	66,182,017.25	69,913,361.51	59,690,710.19	50,888,369.13	48,665,464.67	44,685,492.50	10,686,446.00R	19.30R
726.53	4,145,675.87	4,273,741.15	4,427,039.53	5,068,614.91	5,273,987.43	4,864,297.20	4,793,385.54	4,658,340.22	876,516.53	23.18
137.71	948,247.35	1,001,067.07	1,643,150.77	836,136.88	1,496,895.24	1,303,180.63	1,212,150.41	1,148,179.06	298,462.07	35.12
74.34	72.82	72.43	70.62	71.87	78.78	74.87	72.42	77.36	7.96R	9.30R
360.76	$38,173,401.61	$40,284,149.08	$54,367,810.44	$53,177,459.97	$34,496,705.65	$33,754,874.46	$38,513,005.39	$26,479,278.14	$9,573,736.58	56.63
309.13	$8,981,522.28	$9,386,427.05	$11,131,979.62	$11,766,936.46	$11,218,470.78	$11,085,716.96	$11,499,868.72	$10,253,055.66	$4,510,550.31	78.55
733.87	58,941.31	83,501.54	51,584.51	55,761.07	108,681.91	100,857.36	126,878.53	57,759.02	47,557.17R	45.16R
517.76	$29,132,938.02	$30,814,220.49	$43,184,246.31	$41,354,762.44	$23,169,552.96	$22,568,300.14	$26,886,258.14	$16,168,463.46	$5,110,743.44	46.22
932.90R	$2,306,248.80R	$1,954,281.78R	$6,611,481.04R	$6,327,932.53R	$1,698,511.73R	$1,094,007.20R	$1,294,326.55R	$1,906,962.58R	711,951.82R	27.19R
385.43R	206,205.24R	255,724.55R	228,436.29R	259,364.91R	218,742.96R	96,893.28R	114,039.17R	163,004.43R	82,760.69R	33.67R
199.43	$26,620,483.98	$28,604,214.16	$36,344,328.98	$34,767,465.00	$21,252,298.27	$21,377,399.66	$25,477,892.42	$14,098,496.45	$5,905,455.95	72.08

[fol. 2331]

EXHIBIT No. 102

I. C. C. Docket 18364

Witness—Pettijohn.

Atlantic Coast Line Railroad Company

Property Investment and Operating Income Account for Calendar Years 1921 to 1930, Inclusive

(a)	1921 (b)	1922 (c)	1923 (d)	1924 (e)	1925 (f)	1926 (g)	1927 (h)	1928 (i)	
1. Property Investment As At End of Year:									
2. Investment in Road and Equipment (Acct 701)	$205,157,102.56	$207,599,638.56	$223,066,333.45	$230,642,074.17	$241,242,724.24	$260,174,445.35	$265,283,013.00	$268,559,897.13	$2
3. Material and Supplies (Acct 716)	7,454,612.23	6,178,497.58	9,259,393.12	6,613,154.08	7,391,200.54	8,699,718.20	8,111,050.84	6,612,168.92	
4. Total	212,611,714.79	213,778,136.14	232,325,726.57	237,255,228.25	248,633,924.78	268,874,163.55	273,394,063.84	275,172,066.05	2
5. Cash	14,022,407.48	23,126,495.07	12,205,194.94	13,340,753.21	18,579,417.00	8,494,003.27	17,759,204.73	16,068,918.60	
6. Grand Total	226,634,122.27	236,904,631.21	244,530,921.51	250,595,981.46	267,213,341.78	277,368,166.82	291,153,268.57	291,240,984.65	2
7. Operating Income Account:									
8. Average Mileage Operated—Miles	4,893.05	4,852.21	4,860.95	4,865.95	4,890.49	4,931.09	5,065.15	5,117.54	
9. Total Operating Revenues	$66,730,767.82	$70,823,344.82	$80,882,310.75	$81,785,921.31	$93,997,697.79	$97,086,517.07	$80,426,296.32	$71,393,174.35	$
10. Freight (Acct 101)	44,556,741.27	48,857,557.94	56,580,484.44	57,288,726.36	64,657,121.06	68,001,687.40	58,839,071.46	52,019,282.94	
11. Passenger (Acct 102)	16,787,056.28	15,871,367.42	17,995,083.27	17,755,927.08	22,042,717.53	21,257,076.85	14,955,527.71	13,065,377.43	1
12. Mail (Acct 106)	1,355,220.72	1,382,955.55	1,239,673.77	1,281,724.08	1,347,207.88	1,619,617.77	1,523,180.10	1,617,119.65	
13. Express (Acct 107)	1,798,367.83	2,581,626.23	2,658,978.17	3,026,193.07	2,835,343.71	2,827,798.32	2,527,954.56	2,309,710.94	
14. All Other Revenues	2,233,381.72	2,129,837.68	2,408,091.10	2,433,350.72	3,115,307.61	3,380,336.73	2,580,562.49	2,381,683.39	
15. Total Operating Expenses	$58,005,832.69	$52,033,448.02	$59,868,428.39	$60,335,125.77	$64,966,121.44	$70,701,770.46	$64,330,234.85	$55,966,058.85	$
16. Maintenance of Way and Structures	9,859,444.65	8,434,956.13	10,191,289.40	10,660,589.98	10,820,231.22	13,018,939.26	13,229,875.25	10,935,259.70	1
17. Maintenance of Equipment	15,234,781.77	14,297,180.55	17,349,030.22	16,833,082.10	17,544,833.96	18,518,916.17	16,842,645.52	14,812,872.84	1
18. Traffic	1,161,023.75	1,276,123.35	1,367,841.72	1,531,249.23	1,724,862.71	1,878,173.05	1,983,339.81	2,125,844.50	
19. Transportation	29,703,406.41	26,018,260.29	28,814,875.67	29,063,108.53	32,310,002.17	31,469,600.31	29,539,992.03	25,403,746.44	2
20. General	1,669,648.80	1,649,687.04	1,756,208.48	1,837,373.79	1,844,432.39	2,049,717.87	2,139,332.38	2,100,248.69	
21. All Other Expenses	377,527.31	357,240.66	389,182.90	409,722.14	721,758.99	766,423.80	595,049.86	588,086.68	
22. Operating Ratios—Percent	86.93	73.47	74.02	73.77	69.11	72.82	79.99	78.39	
23. Net Operating Revenues	$8,724,935.13	$18,789,896.80	$21,013,882.36	$21,450,795.54	$29,031,576.35	$26,384,746.61	$16,096,061.47	$15,427,115.50	$1
24. Railway Tax Accruals	$3,075,000.00	$4,275,000.00	$5,425,000.00	$5,625,000.00	$6,600,000.00	$6,725,000.00	$6,050,000.00	$5,800,000.00	$
25. Uncollectable Railway Revenues	69,650.09	81,873.00	42,457.35	59,234.08	20,033.11	22,630.12	58,566.04	40,666.49	
26. Railway Operating Income	$5,580,285.04	$14,433,023.80	$15,546,425.01	$15,766,561.46	$22,411,543.24	$19,637,116.49	$9,987,495.43	$9,586,449.01	$1
27. Hire of Equipment—Net Balance	$466,559.92*	$86,249.61	$14,414.86	$500,193.38*	$2,187,549.15*	$2,015,236.74*	$326,526.53	$280,467.58	
28. Joint Facility Rents—Net Balance	$74,157.79*	$102,905.68*	$64,230.42*	$87,183.21*	$39,445.00*	$36,072.57*	$42,688.42*	$28,447.38	
29. Net Railway Operating Income	$5,039,567.33	$14,416,367.73	$15,496,609.45	$15,179,184.87	$20,184,549.09	$17,585,807.18	$10,271,338.54	$9,895,363.97	$1

* indicates red figures.

Authority: Annual Report to Railroad Commission, State of Florida.

EXHIBIT No. 102

I. C. C. Docket 18364

Witness—Pettijohn.

Atlantic Coast Line Railroad Company

Property Investment and Operating Income Account for Calendar Years 1921 to 1930, Inclusive

	1923 (d)	1924 (e)	1925 (f)	1926 (g)	1927 (h)	1928 (i)	1929 (j)	1930 (k)	Increase or Decrease 1921 vs 1930 Amount (l)	Percentage (m)
8.56	$223,066,333.45	$230,642,074.17	$241,242,724.24	$260,174,445.35	$265,283,013.00	$268,559,897.13	$270,433,428.88	$272,762,457.76	$67,605,355.20	32.95
7.58	9,259,393.12	6,613,154.08	7,391,200.54	8,699,718.20	8,111,050.84	6,612,168.92	6,386,742.01	6,701,665.97	752,946.26*	10.10*
6.14	232,325,726.57	237,255,228.25	248,633,924.78	268,874,163.55	273,394,063.84	275,172,066.05	276,820,170.89	279,464,123.73	66,852,408.94	31.44
5.07	12,205,194.94	13,340,753.21	18,579,417.00	8,494,003.27	17,759,204.73	16,068,918.60	17,133,936.88	13,932,421.20	84,986.28*	.64*
1.21	244,530,921.51	250,595,981.46	267,213,341.78	277,368,166.82	291,153,268.57	291,240,984.65	293,954,107.77	293,396,544.93	66,762,422.66	29.46
2.21	4,860.95	4,865.95	4,890.49	4,931.09	5,065.15	5,117.54	5,151.60	5,156.98	263.93	5.39
4.82	$80,882,310.75	$81,785,921.31	$93,997,697.79	$97,086,517.07	$80,426,296.32	$71,393,174.35	$72,371,894.14	$63,019,956.88	$3,710,810.94*	5.56*
7.94	56,580,484.44	57,288,726.36	64,657,121.06	68,001,687.40	58,839,071.46	52,019,282.94	53,188,638.62	46,428,030.38	1,871,289.11	4.20
7.42	17,995,083.27	17,755,927.08	22,042,717.53	21,257,076.85	14,955,527.71	13,065,377.43	12,132,622.83	10,538,341.06	6,248,715.22*	37.22*
5.55	1,239,673.77	1,281,724.08	1,347,207.88	1,619,617.77	1,523,180.10	1,617,119.65	1,773,380.71	1,692,088.26	336,867.54	24.86
6.23	2,658,978.17	3,026,193.07	2,835,343.71	2,827,798.32	2,527,954.56	2,309,710.94	2,627,742.33	1,942,017.12	143,649.29	7.99
7.68	2,408,091.10	2,433,350.72	3,115,307.61	3,380,336.73	2,580,562.49	2,381,685.80	2,649,509.65	2,419,480.06	186,098.34	8.33
8.02	$59,868,428.39	$60,335,125.77	$64,966,121.44	$70,701,770.46	$64,330,234.85	$55,966,058.85	$53,431,588.81	$49,685,460.01	$8,320,372.68*	14.34*
6.13	10,191,289.40	10,660,589.98	10,820,231.22	13,018,939.26	13,229,875.25	10,935,259.70	10,181,058.53	9,787,464.79	71,979.86*	.73*
0.55	17,349,030.22	16,833,982.10	17,544,833.96	18,518,916.17	16,842,645.52	14,812,872.84	13,874,060.31	12,513,107.69	2,721,674.08*	17.86*
3.35	1,367,841.72	1,531,249.23	1,724,862.71	1,878,173.05	1,983,339.81	2,125,844.50	1,991,844.94	2,015,054.15	854,030.40	73.56
0.29	28,814,875.67	29,063,108.53	32,310,002.17	31,469,600.31	29,539,992.03	25,403,746.44	24,667,139.99	22,643,244.93	7,060,161.48*	23.77*
7.04	1,756,208.48	1,837,373.79	1,844,432.39	2,019,717.87	2,139,332.38	2,100,248.69	2,095,193.28	2,099,809.66	430,160.86	25.71
0.66	389,182.90	409,722.14	721,758.99	766,423.89	595,049.86	588,086.68	622,291.76	626,778.79	249,251.48	66.02
3.47	74.02	73.77	69.11	72.82	79.99	78.39	73.83	78.84	8.09*	9.31*
3.80	$21,013,882.36	$21,450,795.54	$29,031,576.35	$26,384,746.61	$16,096,061.47	$15,427,115.50	$18,940,305.33	$13,334,496.87	$4,609,561.74	52.83
0.00	$5,425,000.00	$5,625,000.00	$6,600,000.00	$6,725,000.00	$6,050,000.00	$5,800,000.00	$6,240,000.00	$5,525,000.00	$2,450,000.00	79.67
3.00	42,457.35	59,234.08	20,033.11	22,630.12	58,566.04	40,666.49	45,793.07	29,850.87	39,799.22*	57.14*
3.80	$15,546,425.01	$15,766,561.46	$22,411,543.24	$19,637,116.49	$9,987,495.43	$9,586,449.01	$12,654,512.26	$7,779,646.00	$2,199,360.96	39.41
0.61	$14,414.86	$500,193.38*	$2,187,549.15*	$2,015,236.74*	$326,526.53	$280,467.58	$164,448.77	$557,377.44*	$90,817.52*	19.47*
5.68*	$64,230.42*	$87,183.21*	$39,445.00*	$36,072.57*	$42,688.42*	$28,447.38	$55,245.56	$19,035.08	$93,192.87	
7.73	$15,496,609.45	$15,179,184.87	$20,184,549.09	$17,585,807.18	$10,271,333.54	$9,895,363.97	$12,874,206.59	$7,241,303.64	$2,201,736.31	43.69

[fol. 2332]

EXHIBIT No. 103

I. C. C. Docket 18364

Witness—Pettijohn.

Atlantic Coast Line Railroad Company

Property Investment and Operating Revenues, State of Florida

(a)	1921 (b)	1922 (c)	1923 (d)	1924 (e)	1925 (f)	1926 (g)	1927 (h)	1928 (i)
Investment in Road and Equipment	$67,481,636.21	$68,188,006.72	$73,686,664.83	$75,248,335.31	$78,136,141.53	$88,324,452.12	$91,936,144.76	$93,711,842.68
Total Operating Revenues	16,953,924.41	17,851,388.48	20,708,644.36	22,316,164.11	27,644,421.00	30,330,194.04	22,180,597.92	18,107,653.51
Freight (101)	10,981,175.51	11,959,891.14	14,193,934.13	15,433,895.97	18,941,677.97	21,603,014.55	16,163,617.95	12,986,975.47
Passenger (102)	4,273,723.21	3,847,467.42	4,396,905.51	4,546,124.07	6,147,239.15	5,955,199.64	3,583,454.38	2,801,559.74
Mail (106)	359,531.30	359,507.27	321,981.42	333,262.08	350,260.77	397,745.73	374,767.91	401,397.57
Express (107)	661,209.07	962,164.07	999,688.56	1,140,109.48	1,068,989.22	1,079,753.62	992,216.45	913,178.41
All Other Revenue	678,285.32	722,418.58	796,134.74	862,772.51	1,136,253.89	1,294,480.50	1,066,541.23	1,004,542.32
Total Intrastate Operating Revenues	$7,761,902.99	$7,956,985.43	$8,925,147.02	$9,979,118.71	$11,756,745.54	$13,885,116.40	$10,222,535.89	$7,993,740.66
Freight (101)	4,585,213.37	5,027,825.86	5,755,532.84	6,752,137.93	8,146,410.54	10,297,598.26	7,769,644.92	5,939,975.00
Passenger (102)	2,481,415.08	2,209,202.85	2,388,532.51	2,328,520.87	2,559,810.39	2,440,941.40	1,400,621.26	976,405.32
Mail (106)	107,859.39	107,852.18	96,594.43	99,978.62	105,078.23	119,323.71	112,430.36	120,319.29
Express (107)	198,362.72	288,649.21	299,906.57	342,032.84	320,696.76	323,926.08	297,664.93	216,866.68
All Other Revenues	389,052.43	323,455.33	384,580.67	456,448.45	624,749.62	703,326.95	642,174.42	740,174.37
Total Interstate Operating Revenues	$9,192,021.42	$9,894,403.05	$11,783,497.34	$12,337,045.40	$15,887,675.46	$16,445,077.64	$11,958,062.03	$10,113,912.85
Freight (101)	6,395,962.14	6,932,065.28	8,438,401.29	8,681,758.04	10,795,267.43	11,305,416.29	8,393,973.03	7,047,000.47
Passenger (102)	1,792,308.13	1,638,204.57	2,008,373.00	2,217,603.20	3,587,428.76	3,514,258.24	2,182,833.12	1,825,154.42
Mail (106)	251,671.91	251,655.09	225,386.99	233,283.46	245,182.54	278,422.02	262,337.55	281,078.28
Express (107)	462,846.35	673,514.86	699,781.99	798,076.64	748,292.46	755,827.54	694,551.52	696,311.73
All Other Revenue	289,232.89	398,963.25	411,554.07	406,324.06	511,504.27	591,153.55	424,366.81	264,367.95

* Indicates a decrease.

Authority: Annual Reports to Railroad Commission, State of Florida.

EXHIBIT No. 103

I. C. C. Docket 18364

Witness—Pettijohn.

Atlantic Coast Line Railroad Company

Property Investment and Operating Revenues, State of Florida

2	1923 (d)	1924 (e)	1925 (f)	1926 (g)	1927 (h)	1928 (i)	1929 (j)	1930 (k)	Increase or Decrease 1930 Over 1921 Amount (l)	Percentage (m)
006.72	$73,686,664.83	$75,248,335.31	$78,136,141.53	$88,324,452.12	$91,936,144.76	$93,711,842.68	$94,709,630.37	$96,077,116.21	$28,595,480.00	42 38
388.48	20,708,644.36	22,316,164.11	27,644,421.00	30,330,194.04	22,180,597.92	18,107,653.51	18,610,308.72	16,334,490.05	619,434.36*	3 65*
891.14	14,193,934.13	15,433,895.97	18,941,677.97	21,603,014.55	16,163,617.95	12,986,975.47	13,489,212.07	11,960,371.20	979,195.69	8 92
107.42	4,396,905.51	4,546,124.07	6,147,239.15	5,955,199.64	3,583,454.38	2,801,559.74	2,479,252.45	2,105,892.97	2,167,830.24*	50.72*
507.27	321,981.42	333,262.08	356,260.77	397,745.73	374,767.91	401,397.57	439,408.30	431,819.21	72,287.91	20 11
164.07	999,688.56	1,140,109.48	1,068,989.22	1,079,753.62	992,216.45	913,178.41	1,048,357.66	777,134.49	115,925.42	17.53
118.58	796,134.74	862,772.51	1,136,253.89	1,294,480.50	1,066,541.23	1,004,542.32	1,154,078.24	1,059,272.18	380,986.86	56.17
085.43	$8,925,147.02	$9,979,118.71	$11,756,745.54	$13,885,116.40	$10,222,535.89	$7,993,740.66	$7,476,181.17	$6,560,653.37	$1,201,249.62*	15 48*
325.86	5,755,532.84	6,752,137.93	8,146,410.54	10,297,598.26	7,769,644.92	5,939,975.00	5,413,570.33	4,852,183.15	266,969.78	5.93
202.85	2,388,532.58	2,328,520.87	2,559,810.39	2,440,941.40	1,400,621.26	976,405.32	737,987.51	540,847.67	1,940,567.41*	78.21*
352.18	96,594.43	99,978.62	105,078.23	119,323.71	112,430.36	120,319.29	131,832.48	129,545.74	21,686.35	20 11
49.21	299,906.57	342,032.84	320,696.76	323,926.08	297,664.93	216,866.68	247,936.59	159,711.76	38,650.96*	19 48*
55.33	384,580.67	456,448.45	624,749.62	703,326.95	642,174.42	740,174.37	944,854.26	878,365.05	489,312.62	125 77
03.05	$11,783,497.34	$12,337,045.40	$15,887,675.46	$16,445,077.64	$11,958,062.03	$10,113,912.85	$11,134,127.55	$9,773,836.68	$581,815.26	6.33
65.28	8,438,401.29	8,681,758.04	10,795,267.43	11,305,416.29	8,393,973.03	7,047,000.47	8,075,641.74	7,108,188.05	712,225.91*	11 14
04.57	2,008,373.00	2,217,603.20	3,587,428.76	3,514,258.24	2,182,833.12	1,825,154.42	1,741,264.94	1,565,045.30	227,262.83*	12.68*
55.09	225,386.99	233,283.46	245,182.54	278,422.02	262,337.55	281,078.28	307,575.82	302,273.47	50,601.56	20.11
14.86	699,781.99	798,076.64	748,292.46	755,827.54	694,551.52	696,311.73	800,421.07	617,422.73	154,576.38	33.40
33.25	411,554.07	406,324.06	511,504.27	591,153.55	424,366.81	264,367.95	209,223.98	180,907.13	108,325.76*	37.45*

[fol. 2333]

EXHIBIT No. 104

I. C. C. Docket 18364

Witness—Pettijohn

Atlantic Coast Line Railroad Company

Comparitive Statement of Revenue Tons by General Commodities, 1921 to 1930, Inclusive. System and State of Florida

System Commodities (a)	1921 (b)	1922 (c)	1923 (d)	1924 (e)	1925 (f)	1926 (g)	1927 (h)	1928 (i)	1929 (j)	1930 (k)	Comparison 1930 vs 1921 (l)
Total Products of Agriculture	2,264,930	2,381,084	2,469,275	2,596,652	2,847,191	2,840,353	2,679,438	2,429,604	2,636,594	2,528,376	263,446
Total Animals and Products	152,747	175,736	192,465	232,150	204,166	222,939	230,136	197,104	183,401	160,252	7,505*
Total Products of Mines	3,175,757	4,027,249	5,665,197	6,161,478	7,876,915	10,650,403	8,579,037	6,979,675	6,000,154	5,819,740	2,643,983
Total Products of Forests	3,764,980	5,224,562	6,317,114	6,305,848	6,292,967	6,089,290	5,541,615	5,147,678	4,738,637	3,388,876	376,104*
Total Manufactures and Miscellaneous	2,863,388	3,606,618	4,106,662	4,377,866	5,566,746	5,997,843	5,036,177	4,748,049	4,570,278	4,162,389	1,299,001
Total All L. C. L. Freight	958,312	1,022,709	1,124,268	1,060,720	1,152,663	1,224,594	1,068,093	900,812	822,788	724,698	233,614*
Grand Total	13,180,114	16,437,958	19,874,981	20,734,714	23,940,650	27,025,422	23,134,496	20,402,922	18,951,802	16,784,331	3,604,217
Percentage Relation to 1921		124.72	150.80	157.32	181.64	205.05	175.53	154.80	143.79	127.27	
State of Florida											
Total Products of Agriculture	869,254	1,011,672	1,039,917	1,092,279	1,109,268	1,059,057	1,074,010	961,553	1,237,519	1,077,516	208,262
Total Animals and Products	86,931	94,520	103,416	147,822	108,113	123,176	119,527	102,604	82,576	70,812	16,119*
Total Products of Mines	1,591,628	2,151,480	2,920,640	3,692,056	5,279,789	8,099,176	5,565,834	3,941,129	4,006,633	3,792,048	2,200,420
Total Products of Forests	1,514,759	1,892,996	2,289,364	2,519,982	2,614,787	2,384,563	1,953,216	1,814,432	1,487,553	1,158,650	356,109*
Total Manufactures and Miscellaneous	1,130,873	1,242,430	1,467,004	1,804,232	2,747,389	3,077,262	2,058,165	1,593,455	1,554,932	1,395,416	264,543
Total All L. C. L. Freight	262,152	271,515	294,656	291,842	348,075	367,883	212,212	209,383	178,711	165,616	96,536*
Grand Total	5,455,597	6,664,613	8,114,997	9,548,213	12,207,421	15,111,117	10,982,964	8,622,556	8,547,924	7,660,058	2,204,461
Percentage Relation to 1921		122.16	148.75	175.02	223.76	276.98	201.32	158.05	156.68	140.41	

Authority: Annual Reports to Railroad Commission, State of Florida.

* Indicates a decrease.

[fol. 2334]

EXHIBIT No. 105

I. C. C. Docket 18364

Witness—Pettijohn

Atlantic Coast Line Railroad Company

62—342

Statement of Freight Revenues (Account 101). Comparison of Revenue, Revenue Increases and Percentage Increases, System, State of Florida, and Interstate and Intrastate, State of Florida Only, Calendar Years 1921 to 1930, Inclusive

Revenue (a)	Entire System Acct. 101, Page 302 Total (b)	Percentage (c)	Florida Interstate (d)	Florida Intrastate (e)	Florida Total (f)	Percentage of Increase as Compared with Year 1921: Interstate (g)	Intrastate (h)	Florida total (i)
1921	$44,556,741.27		$6,395,962.14	$4,585,213.37	$10,981,175.51			
1922	48,857,558.01		6,932,065.28	5,027,825.86	11,959,891.14			
Increase 1922 vs. 1921	4,300,816.67	9.65	536,103.14	442,612.49	978,715.63	8.38	9.65	8.91
1923	56,580,484.44		8,438,401.29	5,755,532.84	14,193,934.13			
Increase 1923 vs. 1921	12,023,743.17	26.99	2,042,439.15	1,170,319.47	3,212,758.62	31.93	25.52	29.26
1924	57,288,726.36		8,681,758.04	6,752,137.93	15,433,895.97			
Increase 1924 vs. 1921	12,731,985.09	28.57	2,285,795.90	2,166,924.56	4,452,720.46	35.74	47.26	40.49
1925	64,657,121.06		10,795,267.43	8,146,410.54	18,941,677.97			
Increase 1925 vs. 1921	20,100,379.79	45.11	4,399,305.29	3,561,197.17	7,960,502.46	68.76	77.67	72.49
1926	68,001,687.40		11,305,416.29	10,297,598.26	21,603,014.55			
Increase 1926 vs. 1921	23,444,946.13	52.62	4,909,454.15	5,712,384.89	10,621,839.04	76.76	124.58	96.73
1927	58,839,071.46		8,393,973.03	7,769,644.92	16,163,617.95			
Increase 1927 vs. 1921	14,282,330.19	32.05	1,998,010.89	3,184,431.55	5,182,442.44	31.24	69.45	47.19
1928	52,019,282.94		7,047,000.47	5,939,975.00	12,986,975.47			
Increase 1928 vs. 1921	7,462,541.67	16.75	651,038.33	1,354,761.63	2,005,799.96	10.18	29.55	18.27
1929	53,188,638.62		8,075,641.74	5,413,570.33	13,489,212.07			
Increase 1929 vs. 1921	8,631,897.35	19.37	1,679,679.60	828,356.96	2,508,036.56	26.26	18.07	22.93
1930	46,428,030.38		7,108,188.05	4,852,183.15	11,960,371.20			
Increase 1930 vs. 1921	1,871,289.11	4.20	712,225.91	266,969.78	979,195.69	11.14	5.82	8.92

Authority: Annual Report to Railroad Commission, State of Florida.

1155

[fol. 2335]

EXHIBIT No. 106

I. C. C. Docket 18364

Witness—Pettijohn

Atlantic Coast Line Railroad Company

Statement Showing the Total, Intrastate and Interstate, Tons of Revenue Freight Handled on the System and Within the State of Florida Calendar Years 1926 to 1930, Inclusive

(a)	Total System (b)	Total Florida (c)	Intrastate Total (d)	Intrastate Florida (e)	Interstate Total (f)	Interstate Florida (g)
1926	27,025,422	15,111,117	13,069,803	8,022,226	13,955,619	7,088,891
Percentage of System Total	100.00	55.91	48.36	29.68	51.64	26.23
Percentage of Florida Total	.....	100.00	.....	53.09	.....	46.91
Percentage of Intrastate Total	.....	.....	100.00	61.38	.....	.....
Percentage of Interstate Total	.....	.....	.....	.....	100.00	50.80
1927	23,134,496	10,982,964	11,723,367	6,524,325	11,411,129	4,458,639
Percentage of System Total	100.00	47.47	50.67	28.2	49.33	19.27
Percentage of Florida Total	.....	100.00	.....	59.41	.....	40.59
Percentage of Intrastate Total	.....	.....	100.00	55.65	.....	.....
Percentage of Interstate Total	.....	.....	.....	.....	100.00	39.07
Decrease 1927 vs. 1926	3,890,926	4,128,153	1,346,436	1,497,901	2,544,490	2,630,252
Percentage of Columnar Decrease	14.4	27.32	10.3	18.67	18.23	37.1
Percentage of Total Decrease	14.4	15.27	4.98	5.54	9.42	9.73
1928	20,402,922	8,622,556	9,645,094	4,621,863	10,757,828	4,000,693
Percentage of System Total	100.00	42.26	47.27	22.65	52.73	19.61
Percentage of Florida Total	.....	100.00	.....	53.61	.....	46.39
Percentage of Intrastate Total	.....	.....	100.00	47.92	.....	.....
Percentage of Interstate Total	.....	.....	.....	.....	100.00	37.19
Decrease 1928 vs. 1926	6,622,500	6,488,561	3,424,709	3,400,363	3,197,791	3,088,198
Percentage of Columnar Decrease	24.5	42.93	26.20	42.38	22.91	43.56
Percentage of Total Decrease	24.5	24.00	12.67	12.58	11.83	11.42
1929	18,951,802	8,547,924	8,256,020	4,129,389	10,695,782	4,418,535
Percentage of System Total	100.00	45.10	43.56	21.79	56.44	23.31
Percentage of Florida Total	.....	100.00	.....	48.31	.....	51.69
Percentage of Intrastate Total	.....	.....	100.00	50.02	.....	.....
Percentage of Interstate Total	.....	.....	.....	.....	100.00	41.31
Decrease 1929 vs. 1926	8,073,620	6,563,193	4,813,783	3,892,837	3,259,837	2,670,356
Percentage of Columnar Decrease	29.87	43.43	36.97	48.53	23.36	37.81
Percentage of Total Decrease	29.87	24.28	17.81	14.4	12.06	9.88
1930	16,784,331	7,660,058	7,269,874	3,476,899	9,514,457	4,183,159
Percentage of System Total	100.00	45.63	43.31	20.71	56.69	24.92
Percentage of Florida Total	.....	100.00	.....	45.39	.....	54.61
Percentage of Intrastate Total	.....	.....	100.00	47.82	.....	.....
Percentage of Interstate Total	.....	.....	.....	.....	100.00	43.96
Decrease 1930 vs. 1926	10,241,091	7,451,059	5,799,929	4,545,327	4,441,162	2,905,732
Percentage of Columnar Decrease	37.89	49.3	44.37	56.66	31.82	40.99
Percentage of Total Decrease	37.89	27.57	21.46	16.82	16.43	10.75

Authorities: Columns (b) and (c) Annual Reports to Railroad Commission, State of Florida; Columns (d), (e) and (g), Exhibit No. 81, I. C. C. Docket 18364; Column (f) by deduction, column (b) minus column (d).

[fol. 2336]

I. C

W

Atlantic Co

Comparative Statement of the Revenue Tons of Freight Handled on the Syste

(a)	1926 Interstate (b)	1926 System by States (c)	Int
1. Total Tons Handled		45,145,284	
2. Intrastate Tons Handled		13,069,803	
3. Interstate Tons Handled by States		32,075,481	
4. System Tons—Interstate	13,955,619		11
5. Florida Tons—Interstate	7,088,891		4
6. Other Than Florida Tons—Interstate	6,866,728		6,9
7. Three Times Florida Interstate Tons		21,266,673	
8. Other Than Florida Tons—Interstate	6,866,728	10,808,808	6,9
9. Average Other Than Florida—Interstate		1.57	

Authorities: Lines 1, 2, 3 and 5, Exhibit No. 84, I. C. C. Docket 18364. Line 4, Ex

[fol. 2337]

I. C

W

Atlantic Coas

Traffic Density Statistics, State of Florida, Compared with Sy

Year (a)	System: Average Miles Operated (b)	System: Revenue Ton Miles (thous.) (c)	System: Tons 1 Mile Per Mile of Road (d)	State of Florida: Average Miles Operated (e)	State of Florida: Revenue Ton Miles (thous.) (f)	State of Florida: Tons 1 Mile Per Mile of Road (g)
1921	5,238.17	2,479,340	473,322	1,837.29	613,722	334,03
1922	5,200.59	3,031,173	582,852	1,859.98	745,106	400,59
1923	5,264.93	3,712,154	705,072	1,870.10	936,346	500,69
1924	5,341.85	3,763,631	704,556	1,876.30	1,045,992	557,47
1925	5,494.35	4,440,361	808,169	1,886.95	1,365,646	723,71
Average—Five Years	5,307.98	3,485,332	654,794	1,866.12	941,356	503,30
1926	5,609.77	4,751,444	846,994	1,998.23	1,634,892	818,17
1927	5,755.23	3,787,301	658,063	2,115.02	1,133,700	536,02
1928	5,807.62	3,313,824	570,599	2,151.69	894,383	415,66
1929	5,842.02	3,284,770	561,753	2,185.06	822,164	376,26
1930	5,847.37	2,871,257	491,034	2,191.01	762,668	348,09
Average—Five Years	5,772.40	3,601,119	625,689	2,128.20	1,049,561	498,84

* Comprehends Average Miles Operated Plus Miles of 2nd Main Track at Close of Y

Authority: Annual Reports to Railroad Commission, State of Florida.

EXHIBIT No. 107

I. C. C. Docket 18364

Witness—Pettijohn

Coast Line Railroad Company

System as a Whole and in the Various States, Separated as Between Interstate and Intrastate Tons

1927		1928		1929		1930	
Interstate (d)	System by States (e)	Interstate (f)	System by States (g)	Interstate (h)	System by States (i)	Interstate (j)	System by States (k)
.....	37,774,464	.....	33,680,946	.....	32,760,570	.....	28,607,978
.....	11,723,367	.....	9,645,094	.....	8,256,020	.....	7,269,874
.....	26,051,097	.....	24,035,852	.....	24,504,550	.....	21,338,104
11,411,129	.....	10,757,828	.....	10,695,782	.....	9,514,457	.....
4,458,639	.....	4,000,693	.....	4,418,535	.....	4,183,159	.....
6,952,490	.....	6,757,135	.....	6,277,247	.....	5,331,298	.....
.....	13,575,917	.....	12,002,079	.....	13,255,605	.....	12,549,477
6,952,490	12,675,180	6,757,135	12,033,773	6,277,247	11,248,945	5,331,298	8,788,627
.....	1.82	.....	1.78	.....	1.79	.....	1.65

4. Exhibit No. —, I. C. C. Docket 18364.

EXHIBIT No. 108

I. C. C. Docket 18364

Witness—Pettijohn

Coast Line Railroad Company

ith System and System Excluding Florida, Calendar Years 1921 to 1930, Inclusive

ons 1 le Per ile of Road (g)	Percent of Florida Operated Miles to System (h)	Percent of Rev. Ton Miles Florida to System (i)	Percent Fla. Tons 1 Mile Per Mile of Road to System (j)	System—Exclusive Florida: Average Miles Operated (k)	Revenue Ton Miles (thous.) (l)	Tons 1 Mile Per Mile of Road (m)	Percent of Fla. Mileage Operated to System Excluding Florida (n)	Percent of Fla. Ton Miles to System Excluding Florida (o)	Percent of Tons 1 Mile Per Mile of Road Fla. to System Excl. Fla. (p)
34,036	35.10	24.80	70.60	3,400.88	1,865,618	548,569	54.00	32.90	60.90
00,599	35.80	24.60	68.70	3,340.61	2,286,067	684,326	55.60	32.60	58.50
00,603	35.50	25.20	71.00	3,394.83	2,775,808	817,657	55.10	33.70	61.20
67,476	35.10	27.80	79.10	3,465.55	2,717,639	784,187	54.10	38.50	71.10
83,716	34.30	30.80	89.60	3,607.40	3,074,745	852,344	52.30	44.40	84.90
93,304	35.20	26.60	75.80	3,441.85	2,543,975	737,417	54.20	36.40	67.30
38,170	35.60	34.40	96.60	3,611.54	3,116,552	862,943	55.30	52.50	94.80
36,023	36.70	29.90	81.50	3,640.21	2,653,601	728,969	58.10	42.80	73.50
5,666	37.00	27.00	72.80	3,655.93	2,419,441	661,785	58.80	37.00	62.80
76,266	37.40	25.10	67.00	3,656.96	2,459,606	672,582	59.80	33.40	55.90
38,090	37.50	26.60	70.90	3,656.36	2,108,589	576,691	59.90	36.20	60.40
98,843	36.80	28.60	77.80	3,644.20	2,551,558	700,594	58.40	40.40	69.50

e of Year.

[fol. 2338]

EXHIBIT NO. 109

I. C. C. Docket 18364

Witness—Pettijohn

Atlantic Coast Line Railroad Company

Railway Operating Expenses—Total and Freight, for Calendar Year Ending December 31st, 1929

Maintenance of way and structures (a)	Total (b)	Freight (c)	Eliminated amounts (d)	Amounts treated as haulage expense (e)
(201) Superintendence	$508,947.88	$331,605.96	$62,577.95	$269,028.01
(202) Roadway Maintenance—Yard	59,187.94	55,475.73	55,475.73	
Roadway Maintenance—Other	938,646.63	572,863.10		572,863.10
(208) Bridges, Trestles and Culverts—Yard	25,802.88	24,107.85	24,107.85	
Bridges, Trestles and Culverts—Other	441,104.28	266,299.15		266,299.15
(212) Ties—Yard	307,055.99	285,488.69	285,488.69	
Ties—Other	1,589,999.04	971,086.69		971,086.69
(214) Rails—Yard	55,516.53	51,587.49	51,587.49	
Rails—Other	688,525.96	419,687.36		419,687.36
(216) Other Track Material—Yard	59,049.11	54,870.30	54,870.30	
Other Track Material—Other	395,928.04	253,717.42		253,717.42
(218) Ballast—Yard	10,234.06	8,968.77	8,968.77	
Ballast—Other	791,501.20	482,112.64		482,112.64
(220) Track Laying and Surfacing—Yard	360,356.47	338,231.23	338,231.23	
Track Laying and Surfacing—Other	2,327,927.29	1,418,065.99		1,418,065.99
(221) Right-of-way Fences—Yard	839.03	726.69	726.69	
Right-of-way Fences—Other	37,771.66	23,014.80		23,014.80
(225) Crossings and Signs—Yard	33,356.81	30,498.28	30,498.28	
Crossings and Signs—Other	82,608.76	50,216.69		50,216.69
(227) Station and Office Buildings	441,861.67	319,599.01		319,599.01
(229) Roadway Buildings	115,999.85	75,143.94		75,143.94
(231) Water Stations	163,335.29	107,042.62		107,042.62
(233) Fuel Stations	4,649.79*	3,003.01*		3,003.01*
(235) Shops and Engine-houses	123,083.68	88,271.52		88,271.52
(241) Wharves and Docks	137,019.38	135,980.07	135,980.07	

*Indicates red in figures.

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Maintenance of way and structures (a)	Total (b)	Freight (c)	Eliminated amounts (d)	Amounts treated as haulage expense (e)
(247) Telegraph and Telephone Lines	82,367.54	53,788.24		53,788.24
(249) Signals and Interlockers	208,210.84	113,379.83		113,379.83
(265) Miscellaneous Structures	1,721.40	1,117.33		1,117.33
(267) Paving	2,568.43	1,825.26	1,825.26	
(269) Roadway Machines	59,884.46	38,644.03		38,644.03
(271) Small Tools and Supplies	133,227.88	86,360.50		86,360.50
(272) Removing Snow, Ice and Sand	1,361.95	854.30		854.30
(273) Assessments for Public Improvements	16,577.13*	10,681.14*	10,681.14*	
(274) Injuries to Persons	37,192.95	23,962.12		23,962.12
(275) Insurance	61,832.98	43,213.03		43,213.03
(276) Stationery and Printing	11,971.04	7,794.67		7,794.67
(277) Other Expenses	3,825.31	2,480.51		2,480.51
Total of Accounts, Nos. 201 to 277	10,278,597.29	6,724,397.66	1,039,657.17	5,684,740.49
(278) Maintaining Joint Tracks, Yards, Other Facilities—Dr.	288,550.87	73,839.93	73,839.93	
(279) Maintaining Joint Tracks, Yards, Other Facilities—Cr.	386,089.63*	249,378.31*	249,378.31*	
Total Maintenance of Way and Structures	10,181,058.53	6,548,859.28	864,118.79	5,684,740.49
Maintenance of Equipment				
(301) Superintendence	$514,003.58	$383,839.19		$383,839.19
(302) Shop Machinery	258,683.18	191,787.87		191,787.87
(308) Steam Locomotives—Repairs	3,970,215.53	2,557,918.04		2,557,918.04
(309) Steam Locomotives—Depreciation	788,262.87	513,337.20		513,337.20
(310) Steam Locomotives—Retirements	16,405.93*	9,633.60*		9,633.60*
(314) Freight-train Cars—Repairs	5,068,631.36	5,068,631.36		5,068,631.36
(315) Freight-train Cars—Depreciation	1,289,210.72	1,289,210.72		1,289,210.72
(316) Freight-train Cars—Retirements	30,409.13	30,409.13		30,409.13
(317) Passenger-train Cars—Repairs	1,208,965.09			
(318) Passenger-train Cars—Depreciation	218,873.58			
(319) Passenger-train Cars—Retirements	21,484.06			
(323) Floating Equipment—Repairs	37,792.44	29,434.59	29,434.59	
(324) Floating Equipment—Depreciation	4,560.00	4,046.40	4,046.04	

(324) Floating Equipment—Depreciation	0	4,560.00	4,046.40	4,046.04	
(326) Work Equipment—Repairs		249,3[illegible].38	163,001.14		163,001.14
(327) Work Equipment—Depreciation		45,[illegible]34.28	29,800.80		29,800.80
(328) Work Equipment—Retirements		17,351.25	11,300.41		11,300.41
(329) Miscellaneous Equipment—Repairs		560.75	415.83	415.83	
(330) Miscellaneous Equipment—Depreciation		359.00	267.37	267.37	
(332) Injuries to Persons		33,648.02	26,637.69		26,637.69
(333) Insurance		63,533.22	51,531.62		51,531.62
(334) Stationery and Printing		20,399.68	15,244.97		15,244.97
(335) Other Expenses		13,177.03	9,797.84		9,797.84
Total of Accounts, Nos. 301 to 335		13,838,810.22	10,366,978.21	34,163.83	10,332,814.38
(336) Maintaining Joint Equipment—Dr		39,203.03	2,803.46		2,803.46
(337) Maintaining Joint Equipment—Cr		3,952.94*	3,223.19*		3,223.19*
Total Maintenance of Equipment		13,874,060.31	10,366,558.48	34,163.83	10,332,394.65

[fol. 2339]

Traffic

(a)

(351) Superintendence		$756,607.28	$576,571.13	$456,246.73	$120,324.40
(352) Outside Agencies		840,990.27	488,739.58	488,739.58	
(353) Advertising		142,530.92	4,578.80	4,578.80	
(354) Traffic Associations		56,303.55	46,802.39	46,802.39	
(356) Industrial and Immigration Bureaus		25,753.89	16,637.06	16,637.06	
(357) Insurance		245.30	103.33		103.33
(358) Stationery and Printing		169,413.73	146,728.49		146,728.49
Total of Accounts, Nos. 351 to 359		1,991,844.94	1,280,160.78	1,013,004.56	267,156.22

Transportation—Rail Line

(371) Superintendence		$998,392.61	$697,819.94		$697,819.94
(372) Dispatching Trains		683,692.43	298,921.81		298,921.81
(373) Station Employees		4,179,054.42	3,281,352.20	$3,281,352.20	
(374) Weighing, Inspection and Demurrage Bureaus		130,917.42	130,917.42		130,917.42
(376) Station Supplies and Expenses		189,876.04	126,351.55	126,351.55	
(377) Yardmasters and Yard Clerks		928,620.31	866,495.95	866,495.95	

*Indicates red in figures.

EXHIBIT No. 109—Continued

Maintenance of way and structures (a)	Total (b)	Freight (c)	Eliminated amounts (d)	Amounts treated as haulage expense (e)
(378) Yard Conductors and Brakemen	1,837,343.39	1,234,111.05	1,234,111.05	
(379) Yard Switch and Signal Tenders	28,258.55	24,852.68	24,852.68	
(380) Yard Enginemen	931,508.20	861,177.71	861,177.71	
(382) Fuel for Yard Locomotives	673,242.86	613,206.79	613,206.79	
(385) Water for Yard Locomotives	27,990.16	24,562.26	24,562.26	
(386) Lubricants for Yard Locomotives	8,805.96	7,997.94	7,997.94	
(387) Other Supplies for Yard Locomotives	10,856.20	10,109.22	10,109.22	
(388) Enginehouse Expenses—Yard	252,114.25	233,345.58	233,345.58	
(389) Yard Supplies and Expenses	64,900.21	59,486.32	59,486.32	
(392) Train Enginemen	2,786,808.25	1,571,323.64		1,571,323.64
(394) Fuel for Train Locomotives	3,745,315.19	2,281,331.78		2,281,331.78
(397) Water for Train Locomotives	158,697.40	96,574.80		96,574.80
(398) Lubricants for Train Locomotives	91,842.84	42,283.07		42,283.07
(399) Other Supplies for Train Locomotives	54,006.23	29,281.34		29,281.34
(400) Enginehouse Expenses—Train	721,177.36	400,414.01		400,414.01
(401) Trainmen	3,345,585.89	2,048,715.27		2,048,715.27
(402) Train Supplies and Expenses	922,480.19	400,759.84		400,759.84
(404) Signal and Interlocker Operation	240,480.90	130,747.26		130,747.26
(405) Crossing Protection	134,078.18	71,195.71		71,195.71
(406) Drawbridge Operation	28,827.86	19,754.44		19,754.44
(407) Telegraph and Telephone Operation	107,757.49	72,327.20		72,327.20
(408) Operating Floating Equipment	46,966.65	33,542.99		33,542.99
(410) Stationery and Printing	168,580.18	128,970.61		128,970.61
(411) Other Expenses	60,803.51	48,541.35		48,541.35
(414) Insurance	50,089.57	47,268.11		47,268.11
(415) Clearing Wrecks	55,462.62	47,342.19		47,342.19
(416) Damage to Property	77,196.61	47,087.20		47,087.20
(417) Damage to Live Stock on Right-of-way	88,088.44	42,644.00		42,644.00
(418) Loss and Damage—Freight	581,727.36	581,727.36		581,727.36
(419) Loss and Damage—Baggage	2,222.92			
(420) Injuries to Persons	331,346.10	144,620.32		144,620.32
Total of Accounts, Nos. 371-389, 392-411, 414-420	24,242,114.75	16,757,160.91	7,343,049.25	9,414,111.66
(390) Operating Joint Yards and Terminals—Dr.	849,034.64	117,323.93	117,323.93	

(390) Operating Joint Yards and Terminals—Dr.	24,242,111.75	16,757,160.91	7,343,049.25	9,414,111.66	
	849,034.64	117,323.93	117,323.93		
(391) Operating Joint Yards and Terminals—Cr.					144,620.32
(412) Operating Joint Tracks and Facilities—Dr.	256,495.94*	176,688.41*	176,688.41*		
(413) Operating Joint Tracks and Facilities—Cr.	42,140.04	20,383.65			20,383.65
Total Transportation—Rail Line	209,653.50*	132,885.67*			132,885.67*
	24,667,139.99	16,585,294.41	7,283,684.77	9,301,609.64	
Miscellaneous Operations					
(441) Dining and Buffet Service	$654,564.10				
Total Miscellaneous Operations	654,564.10				

[fol. 2340]

General

(a)

(451) Salaries and Expenses of General Officers	$231,810.33	$162,640.10		
(452) Salaries and Expenses of Clerks and Attendants	955,864.61	792,339.00		
(453) General Office Supplies and Expenses	49,729.96	37,788.63		
(454) Law Expenses	342,996.94	240,281.37		
(455) Insurance	929.61	610.10		
(456) Relief Department Expenses	69,780.62	47,259.06		
(457) Pensions	143,687.19	97,313.06		
(458) Stationery and Printing	94,121.67	72,348.13		
(459) Valuation Expenses	76,848.17	52,016.00		
(460) Other Expenses	88,070.05	56,438.45		
Total of Accounts, Nos. 451 to 460	2,053,839.15	1,559,033.90		
(461) General Joint Facilities—Dr.	42,908.90	2,113.68		
(462) General Joint Facilities—Cr.	1,556.77*	1,021.85*		
Total General Expenses	2,095,193.28	1,560,125.73		
Transportation for Investment—Cr.	32,272.34*	32,185.94*	$412,826.72	$1,147,299.01
Grand Total Railway Operating Expenses	53,431,588.81	36,308,812.74	9,607,798.67	32,185.94*
				26,701,014.07

* Indicates red figures.

Authority: Annual Report to Railroad Commission, State of Florida.

EXHIBIT No. 110

I. C. C. Docket 18364

Witness—Pettijohn

Atlantic Coast Line Railroad Company

Train and Car Operating Statistics—System and State of Florida for Year Ending December 31st, 1929

Item No.	Train Miles (a)	System Total (b)	System Freight (c)	System Passenger (d)	State of Florida Total (e)	State of Florida Freight (f)	State of Florida Passenger (g)	Percentage of Florida to System Total (h)	Percentage of Florida to System Freight (i)	Percentage of Florida to System Passenger (j)
13	Freight Total	7,398,961	7,398,961		2,143,745	2,143,745		28.97	28.97	
14	Passenger	9,503,932		9,503,932	2,821,984		2,821,984	29.69		29.69
15	Mixed Train	790,580	610,249	180,331	408,905	309,500	99,405	51.72	50.72	55.42
16	Special*	12,823	9,981	2,842	4,100	3,254	846	31.97	32.60	29.77
17	Total Transportation Service	17,706,296	8,019,191	9,687,105	5,378,734	2,456,499	2,922,235	30.38	30.63	30.15
	Locomotive Miles									
24	Freight Total	7,546,606	7,546,606		2,196,572	2,196,572		29.11	29.11	
28	Passenger	9,719,910		9,719,910	2,899,846		2,899,846	28.81		28.81
32	Mixed Train**	799,896	617,440	182,456	414,224	313,526	100,698	51.79	50.78	55.19
36	Special*	13,422	10,448	2,974	4,348	3,451	897	32.39	33.03	30.16
37	Train Switching	686,919	686,919		261,567	261,567		38.08	38.08	
40	Yard Switching	3,231,626	2,982,134	249,492	949,766	887,432	62,334	29.39	29.76	24.98
41	Total Transportation Service	21,998,379	11,843,547	10,154,832	6,726,323	3,662,548	3,063,775	30.58	30.92	30.71
	Car Miles									
51	Freight Train—Loaded	206,266,705	206,266,705		42,936,667	42,936,667		20.82	20.82	
62	Mixed Train-Freight—Loaded	3,388,487	3,388,487		1,607,989	1,607,989		47.45	47.45	
71	Special Train-Freight—Loaded	180,592	180,592		57,342	57,342		31.75	31.75	
	Total Freight-Loaded	209,835,784	209,835,784		44,601,998	44,601,998		21.25	21.25	

52 Freight Train—Empty	134,730,301	134,730,301		31,782,631	31,782,631		23.59	23.59	
63 Mixed Train—Freight—Empty	2,504,519	2,504,519		1,459,118	1,459,118		58.26	58.26	
72 Special Train—Freight—Empty	571	571		0	0		0	0	
Total Freight—Empty	137,235,391	137,235,391		33,241,749	33,241,749		24.22	24.22	
Total Freight—Loaded and Empty	347,071,175	347,071,175		77,843,747	77,843,747		22.43	22.43	
54 Freight Train—Caboose	7,520,585	7,520,585		2,157,714	2,157,714		28.79	28.79	
64 Mixed Train—Caboose	41,060	41,060		23,171	23,171		56.43	56.43	
*73 Special Train—Caboose	12,823	12,823		4,100	4,100		31.97	31.97	
Total Freight—Caboose	7,574,468	7,574,468		2,184,985	2,184,985		30.17	30.17	
Total Frt Transportation Service	354,645,643	354,645,643		80,028,732	80,028,732		22.57	22.57	
61 Passenger Train—Total	72,125,012		72,125,012	19,355,532		19,355,532	26.84		26.84
66-69 Mixed Train—Passenger	1,759,790		1,759,790	992,516		992,516	56.40		56.40
75-78 Special Train—Passenger	55,227		55,227	15,982		15,982	28.94		28.94
Total Passenger	73,940,029		73,940,029	20,364,030		20,364,030	27.54		27.54
Total Transportation Service	428,585,672	354,645,643	73,940,029	100,392,762	80,028,732	20,364,030	23.42	22.57	27.54

*Assigned on Basis of Special Car Miles.
**Assigned on Basis of Mixed Car Miles.

Authority: Schedule No. 531 and No. 931 Pages 508 509 904 905 of Annual Report, Railroad Commission, State of Florida.

[fol. 2342]

EXHIBIT FLACK No. 111

Recapitulation of Intrastate Log Movement in Florida During Periods February 8, 1929, to January 31, 1930, and February 1, 1930, to January 31, 1931, Respectively, Exclusive of Trainload M

Destination	1 Groveland	2 Loughman	3 Slater	4 Bond's Mill & Glenwood	5 Jacksonville	6 Perry	7 Cross City	8 Eastport	9 Gainesville	10 Live Oak	11 York	12 Buffalo Bluff	13 Lacooche
(a) Cars of logs moved between Feb. 8, 1929, and Jan. 31, 1930, inclusive.....	None	None	None	95	961	2,107	325	224	72	39	509	93	3,004
(b) Revenue collected on logs moved between February 8, 1929, and January 31, 1930, inclusive.....	None	None	None	$2,155.32	23,772.77	55,438.58	6,122.36	10,403.43	2,100.83	854.34	8,778.70	1,711.88	77,082.64
(c) Cars of logs moved between Feb. 1, 1930, and January 31, 1931, inclusive.	191	217	71	121	266	1,078	934	None	None	None	None	1	225
(d) Revenue collected on logs moved between Feb. 1, 1930, and January 31, 1931, inclusive.....	$5,378.68	5,673.83	987.96	2,630.20	7,646.15	21,766.76	19,778.72	None	None	None	None	15.57	3,943.34

[fol. 2343] EXHIBIT FLACK #112

Analysis of Log Movement to Groveland During Period February 8, 1929, to January 31, 1930, Inclusive

None

Analysis of Log Movement to Groveland During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Altoona	21	82	Cypress	$583.46
Aster	17	99	"	509.82
Astor Park	116	96	"	3,448.92
Auburndale	14	69	"	348.70
Aulls	7	37	"	133.44
Pineola	11	42	"	258.33
Zephyrhills	5	42	"	96.01
	191			$5,378.68

Analysis of Log Movement to Loughman During Period February 8, 1929, to January 31, 1930, Inclusive

None

Analysis of Log Movement to Loughman During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Altoona	40	93	Cypress	$1,216.37
Aulls	49	52	"	1,153.51
Cassia	14	64	"	349.30
Clydes	21	58	"	563.15
Groveland	1	68	"	27.50
Lisbon	2	91	"	63.78
Okahumpka	5	99	"	162.12
Sanford	25	51	"	640.00
Wagner	60	62	"	1,498.10
	217			$5,673.83

[fol. 2344] EXHIBIT FLACK #113

Analysis of Log Movement to Slater During Period February 8, 1929, to January 31, 1930, Inclusive

None

Analysis of Log Movement to Slater During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Ammonate	52	21	Pine	$765.04
Estero	7	25	"	98.21
Tice	11	6	"	110.00
Southport	1		"	14.71
	71			$987.96

Analysis of Log Movement to Bond's Mill and Glenwood During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Markham	27	30	Cypress	$595.24
Walling	60	35	"	1,385.86
Walling Spur	5	35	"	118.50
Wekina	3	31	"	55.72
	95			$2,155.32

Analysis of Log Movement to Bond's Mill and Glenwood During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Apopka	64	49	Mixed cypress & hardwood	$1,565.57
Markham	12	30	Cypress	264.60
Mt. Plymouth	11	39	"	228.43
Wagner	34	35	Mixed cypress & hardwood	571.60
	121			$2,630.20

[fol. 2345] EXHIBIT FLACK #114

Analysis of Log Movement to Jacksonville During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Baldwin	330	20	Hardwood	$5,899.75
Chiefland	4	118	"	131.95
Clydes	15	133	"	448.54
Coats	2	157	"	87.90
Deeville	21	15	"	342.87
Dyal	14	24	"	265.09
East Alachua	45	74	"	1,277.25
Edgar	1	77	"	30.86
Fesan	3	63	"	69.20
Ft. White	1	91	"	27.90
Grove Park	29	91	"	858.96
Green Cove Spgs	5	31	"	104.27
Hague	73	75	"	2,063.64
Hazelton	1	83	"	33.60
Herlong	15	97	"	499.92
High Springs	13	81	"	344.72
Hildreth	56	97	"	1,789.20
Hollister	4	68	"	125.40
Johnstown	17	49	"	440.81
Jonesto	12	68	"	364.20
Kendrick	6	121	"	196.70
Leno	21	38	"	397.74
Longwood	128	134	"	3,781.25
Micanopy	5	103	"	135.02
Oakton	10	75	"	327.89
Orange Park	6	15	"	87.66
Oviedo	85	143	"	2,587.74
Palatka	9	57	"	224.30
Paradise	5	82	"	114.02
Raleigh	6	104	"	207.49
Ratcliffe	3	15	"	41.34
Rochelle	9	95	"	289.09
Santa Fe	2	65	"	54.55
Seville	2	84	"	47.63
Walkill	3	34	Cypress	74.32
	961			$23,772.77

Analysis of Log Movement to Jacksonville During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Aulls	14	136	Cypress	$557.69
Cary	1	12	Hardwood	14.49
Cassia	13	137	Cypress	842.73
"	12	137	Hardwood	
Citronelle	3	141	Cypress	90.00
Clydes	12	133	Hardwood	258.84
Deeville	1	15	"	16.33
Dukes	49	58	"	1,256.90
Dyal	18	24	"	454.44
Gardenia	17	142	"	543.00
Hughe	20	75	"	565.36
Johnson	21	79	"	572.76
Leno	2	38	"	38.92
Longwood		134	"	1,260.31
Ocala		126	"	56.00
Raiford	8	45	"	177.14
Ratcliff	3	15	"	41.34
Rochelle	2	95	"	64.24
Wagner	16	137	Cypress	539.07
Wekiva	9	134	"	296.59
	266			$7,646.15

[fol. 2346] EXHIBIT FLACK #115

Analysis of Log Movement to Perry During Period February 8, 1929 to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Carbur	203	17	Hardwood	$3,780.47
Chiefland	2	66	"	43.90
Cross City	200	44	"	5,144.00
Drifton	27	32	"	459.00
Gainesville	38	104	"	1,284.55
Grove Park	11	118	"	350.54
Hague	125	94	"	3,850.04
Hardeetown	2	65	"	42.00
Haynesworth	2	93	"	62.40
Herlong	4	105	"	135.41
High Springs	3	90	"	63.32
Hildreth	162	105	"	5,945.40
Hines	571	34	"	12,304.57
Homosassa	245	130	"	11,112.71
Iddo	4	14	"	53.79
Lamont	293	22	"	4,717.71
Lowell	1	133	"	30.45
Micanopy	34	122	"	1,197.14
Miccosukee	8	54	"	169.96
Monticello	41	36	"	719.21
O'Brien	5	118	"	163.69
Ocala	3	133	"	104.72
Old Town	13	54	"	252.37
Raleigh	10	94	"	324.66
Rochelle	24	114	"	792.96
Santa Fe	14	98	"	407.26
Thompson's Spur	33	107	"	1,013.99
Williston	29	98	"	912.36
	2,107			$55,438.58

Analysis of Log Movement to Perry During Period February 1, 1930 to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Baum	24	59	Hardwood	$579.50
Chiefland	6	66	"	131.70
Clara	2	27	"	43.84
Cross City	172	44	"	4,424.01
Drifton	15	32	"	255.00
Francis	5	148	"	157.13
Gainesville	3	104	"	101.41
Grove Park	4	118	"	127.48
Hines	153	34	"	3,297.15
Hollister	3	141	"	93.91
Lacoochee	4	155	"	147.75
Lamont	345	22	"	5,554.50
Lebanon	2	92	"	50.00
Lowell	2	133	"	61.56
Miccosukee	31	54	"	658.63
Mt. Plymouth	2	200	"	*74.32
Monticello	238	36	"	4,174.52
Otter Creek	5	78	"	116.26
Palatka	15	153	"	470.52
Paradise	7	100	"	216.48
Rochelle	17	114	"	561.68
Salem	13	19	"	165.37
Santa Fe	2	98	"	58.20
Thompson's Spur	8	107	"	245.84
	1,078			$21,766.76

* This figure based on minimum load of 40,000 pounds at prescribed rate, because amount paid was unavailable and Ex. 61 showed no shipment from this origin.

[fol. 2347] EXHIBIT FLACK #116

Analysis of Log Movement to Cross City During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Hines	325	10	Pine	$6,122.36

Analysis of Log Movement to Cross City During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Carbur	593	27	Cypress	$12,560.76
Chiefland	2	22	Pine	39.56
Clara	1	17	Cypress	17.01
Hines	223	10	Pine	4,201.32
Lebanon	45	48	Cypress	1,216.25
Otter Creek	18	34	"	402.92
Rochelle	52	70	"	1,340.90
	934			$19,778.72

Analysis of Log Movement to Eastport During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Carbur	79	152	Pine	$3,539.84
Dyal	1	31	"	19.32
Oakton	1	88	"	29.54
Perry	142	169	"	6,786.45
Walkill	1	47	"	28.28
	224			$10,403.43

Analysis of Log Movement to Eastport During Period February 1, 1930, to January 31, 1931, Inclusive

None

[fol. 2348] EXHIBIT FLACK #117

Analysis of Log Movement to Gainesville During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Clara	15	77	Hardwood	$376.35
Cross City	14	60	"	520.40
East Alachua	1	15	"	22.83
Ft. White	3	32	"	56.32
High Springs	3	23	"	55.73
Hines	16	70	"	618.73
Jonesto	2	36	"	41.40
Hendrick	3	36	"	67.12
Martin	5	33	"	94.00
Monticello	1	140	"	42.00
Oakton	2	29	"	38.89
Okahumpka	3	81	"	90.37
Santa Fe	2	21	"	30.87
Trenton	2	41	"	45.82
	72			$2,100.83

Analysis of Log Movement to Gainesville During Period February 1, 1930, to January 31, 1931, Inclusive

None

Analysis of Log Movement to Live Oak During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Ft. White	23	37	Hardwood	$490.67
O'Brien	2	18	"	31.86
Roger's Mile Post	14	47	"	331.81
	39			$854.34

Analysis of Log Movement to Live Oak During Period February 1, 1930, to January 31, 1931, Inclusive

None

[fol. 2349] EXHIBIT FLACK #118

Analysis of Log Movement to York During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Coats	334	39	Pine	$5,833.45
Crystal River	175	28	"	$2,945.25
	509			$8,778.70

Analysis of Log Movement to York During Period February 1, 1930, to January 31, 1931, Inclusive

None

Analysis of Log Movement to Buffalo Bluff During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Rochelle	32	45	Hardwood	$692.56
Seville	61	22	"	1,019.32
	93			$1,711.88

EXHIBIT FLACK No. 111

Log Movement in Florida During Periods February 8, 1929, to January 31, 1930, and February 1, 1930, to January 31, 1931, Respectively, Exclusive of Trainload Movement from Hines to Palatka.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
id	Loughman	Slater	Bond's Mill & Glenwood	Jacksonville	Perry	Cross City	Eastport	Gainesville	Live Oak	York	Buffalo Bluff	Lacooche	Otter Creek	Baldwin	Palatka	Total
	None	None	95	961	2,107	325	224	72	39	509	93	3,004	515	9	12	7,965
	None	None	$2,155.32	23,772.77	55,438.58	6,122.36	10,403.43	2,100.83	854.34	8,778.70	1,711.88	77,082.64	13,034.45	133.44	302.46	$201,891.20
	217	71	121	266	1,078	934	None	None	None	None	1	225	6	None	94	3,204
3	5,673.83	987.96	2,630.20	7,646.15	21,766.76	19,778.72	None	None	None	None	15.57	3,943.34	151.92	None	2,301.62	$70,274.75

Analysis of Log Movement to Buffalo Bluff During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Leno	1	27	Hardwood	$15.57

[fol. 2350] EXHIBIT FLACK #119

Analysis of Log Movement to Lacoochee During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Homosassa	2,446	68	Cypress	$62,764.36
"	224	68	Pine	5,747.84
"	334	68	Hardwood	8,570.44
	3,004			$77,082.64

Analysis of Log Movement to Lacoochee During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Homosassa	10	68	Cypress	$256.60
Hooper	7	18	"	96.36
Istachetta	201	17	"	3,447.83
Otter Creek	2	77	"	56.93
Pineola	5	18	"	85.62
	225			$3,943.34

Analysis of Log Movement to Otter Creek During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Homosassa	513		Hardwood	$12,990.45
Perry	2	78	"	44.00
	515			$13,034.45

Analysis of Log Movement to Otter Creek During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Homosassa	6	52	Hardwood	$151.92

[fol. 2351] EXHIBIT FLACK #120

Analysis of Log Movement to Baldwin During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Jacksonville	9	20	Hardwood	$133.44

Analysis of Log Movement to Baldwin During Period February 1, 1930, to January 31, 1931, Inclusive

None

Analysis of Log Movement to Palatka, Exclusive of Trainload Movement from Hines to Palatka, During Period February 8, 1929, to January 31, 1930, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Clydes	7	78	Cypress	$177.16
Longwood	5	79	"	125.30
	12			$302.46

Analysis of Log Movement to Palatka, Exclusive of Trainload Movement from Hines to Palatka, During Period February 1, 1930, to January 31, 1931, Inclusive

Origin	Cars	Miles	Description of logs	Collected revenue
Apopka	6	96	Cypress	$168.84
Aulls	2	81	"	64.46
Cassia	23	82	"	621.25
Grove Park	10	36	"	192.12
Longwood	19	79	"	476.12
Rochelle	34	40	"	778.83
	94			$2,301.62

[fol. 2352] EXHIBIT FLACK #121

Analysis of Florida Intrastate Log Movement, Exclusive of Train Load Movement from Hines to Palatka, During Period from February 8, 1929, to January 31, 1930, Inclusive, Showing Number of Cars of Pine, Cypress and Hardwood Logs Respectively Moving and Amount of Revenue Derived Therefrom

	Description of Logs—Number of Cars					
Destination	Pine	Revenue	Cypress	Revenue	Hardwood	Revenue
Groveland	....	.....	.....	.....	.....	.....
Loughman	....	.....	.....	.....	.....	.....
Slater	....	.....	.....	.....	.....	.....
Bond's Mill and Glenwood	....	.....	95	$2,155.32	.....	.....
Jacksonville	....	.....	3	74.32	958	23,698.45
Perry	....	.....	.....	.....	2,107	55,438.58
Cross City	325	6,122.36	.....	.....	.....	.....
Eastport	224	10,403.43	.....	.....	.....	.....
Gainesville	....	.....	.....	.....	72	2,100.83
Live Oak	....	.....	.....	.....	39	854.34
York	509	8,778.70	.....	.....	.....	.....
Buffalo Bluff	....	.....	.....	.....	93	1,711.88
Lacoochee	224	5,747.84	2,780	71,334.80	.....	.....
Otter Creek	....	.....	.....	.....	515	13,034.45
Baldwin	....	.....	.....	.....	9	133.44
Palatka	....	.....	12	302.46	.....	.....
Total	1,282	$31,052.33	2,890	$73,866.90	3,793	$96,971.97

[fol. 2353] EXHIBIT FLACK #122

Analysis of Florida Intrastate Log Movement, Exclusive of Train Load Movement from H[illegible]es to Palatka. During Period from February 1, 1930, to January 31, 1931, Inclusive, Showing Number of Cars of Pine, Cypress and Hardwood Logs Respectively Moving and Amount of Revenue Derived Therefrom

	Description of Logs—Number of Cars					
Destination	Pine	Revenue	Cypress	Revenue	Hardwood	Revenue
Groveland	....	.....	191	$5,378.68	.....	.....
Loughman	....	.....	217	5,673.83	.....	.....
Slater	71	$987.96	.....	.....	.....	.....
Bond's Mill and Glenwood	....	.....	75	1,630.12	46	1,000.08
Jacksonville	....	.....	55	1,921.58	211	5,724.57
Perry	....	.....	....	.....	1,078	21,766.76
Cross City	225	4,240.88	709	15,537.84	....	.....
Eastport	....	.....	....	.....	....	.....
Gainesville	....	.....	....	.....	....	.....
Live Oak	....	.....	....	.....	....	.....
York	....	.....	....	.....	....	.....
Buffalo Bluff	....	.....	....	.....	1	15.57
Lacoochee	....	.....	225	3,943.34	....	.....
Otter Creek	....	.....	....	.....	6	151.92
Baldwin	....	.....	....	.....	....	.....
Palatka	....	.....	94	2,301.62	....	.....
Total	296	$5,228.84	1,566	$36,387.01	1,342	$28,658.90

[fol. 2354] EXHIBIT FLACK # 123

Copy

Atlantic Coast Line Railroad Company

File 41-B

Jacksonville, Fla.,
April 10th 1931-bm.

Gress Manufacturing Company, City.

GENTLEMEN: Until further notice the Atlantic Coast Line Railroad Company will transport logs (except cedar and except ash, gum, hickory, oak, pine and cypress logs, not over six feet in length) for distances 170 miles and under, presently collecting therefor on basis of the mileage scale of rates (Cummer scale) formerly published at top of page 413 of Agent Glenn's I. C. C. A-659 (Southern Lumber Tariff) A. C. L. R. R.'s Freight Tariff No. 10930, but you are now advised if the scale of rates just referred to is not the applicable rate or rates now in effect, the Atlantic Coast Line Railroad Company will later make demand for revenue based on the applicable rates.

[fol. 2355]

EXHIBIT No. 124

I. C. C. Docket 18364

Witness: J. W. Perrin

Statement Comparing Atlantic Coast Line Railroad Per Car Revenue On Logs, Interstate, and in Florida, Intrastate, With Per Car Revenue On other Commodities Moving Between Atlantic Coast Line Railroad Stations in Georgia, on the One Hand, and, on the Other Hand, Stations on Atlantic Coast Line Railroad in Florida North of High Springs, Fla. Carload Rates Expressed in Cents Per 100 Pounds. Weights Per Car Are Actual Average on Atlantic Coast Line Railroad for Year 1925.

	Rates						Revenue Per Car					
	Logs		Georgia-Florida Interstate				Logs		Georgia-Florida Interstate			
Miles	Interstate	Florida Intrastate	Common brick	Gravel and sand	Lime	Cement	Interstate 55,000 lbs	Florida Intrastate 55,000 lbs	Brick 66,580 lbs	Gravel Sand 92,540 lbs	Lime 50,000 lbs	Cement 70,740 lbs
5	2.5	1.71	3	2.5	2.8	4	$13.75	$9.41	$19.97	$23.14	$14.00	$28.30
10	2.5	1.71	3	2.5	3.6	5	13.75	9.41	19.97	23.14	18.00	35.37
15	3	1.71	3.5	2.75	4	6	16.50	9.41	23.30	25.45	20.00	42.44
20	3	1.71	3.5	2.75	4.4	7	16.50	9.41	23.30	25.45	22.00	49.52
25	3.5	1.71	4	3	4.8	8	19.25	9.41	26.63	27.76	24.00	56.59
30	3.5	1.71	4	3	5.2	8	19.25	9.41	26.63	27.76	26.00	56.59
35	4	1.71	4.5	3.5	5.6	8.5	22.00	9.41	29.96	32.39	28.00	60.13
40	4	1.71	4.5	3.5	6	8.5	22.00	9.41	29.96	32.39	30.00	60.13
45	4.5	2.10	5	4	6.4	9	24.75	11.55	33.29	37.02	32.00	63.67
50	4.5	2.10	5	4	6.8	9	24.75	11.55	33.29	37.02	34.00	63.67
55	4.5	2.10	5	4	7.2	9.5	24.75	11.55	33.29	37.02	36.00	67.20
60	5	2.10	5	4	7.6	9.5	27.50	11.55	33.29	37.02	38.00	67.20
65	5	2.30	5.5	4.5	8	10	27.50	12.65	36.62	41.64	40.00	70.74
70	5	2.30	5.5	4.5	8.4	10	27.50	12.65	36.62	41.64	42.00	70.74
75	5.5	2.30	6	4.5	8.8	10.5	30.25	12.65	39.95	41.64	44.00	74.28
80	5.5	2.30	6	4.5	8.8	10.5	30.25	12.65	39.95	41.64	44.00	74.28
85	5.5	2.30	6.5	5	9.2	11	30.25	12.65	43.28	46.27	46.00	77.81
90	6	2.30	6.5	5	9.2	11	33.00	12.65	43.28	46.27	46.00	77.81
95	6	2.60	6.5	5	9.6	11.5	33.00	14.30	43.28	46.27	48.00	81.35
100	6	2.60	6.5	5	9.6	11.5	33.00	14.30	43.28	46.27	48.00	81.35

EXHIBIT No. 124—Continued

Miles	Rates: Logs: Interstate	Rates: Logs: Florida Intrastate	Rates: Georgia-Florida Interstate: Common brick	Rates: Georgia-Florida Interstate: Gravel and sand	Rates: Georgia-Florida Interstate: Lime	Rates: Georgia-Florida Interstate: Cement	Revenue Per Car: Logs: Interstate 55,000 lbs	Revenue Per Car: Logs: Florida Intrastate 55,000 lbs	Revenue Per Car: Georgia-Florida Interstate: Brick 66,580 lbs	Revenue Per Car: Georgia-Florida Interstate: Gravel Sand 92,540 lbs	Revenue Per Car: Georgia-Florida Interstate: Lime 50,000 lbs	Revenue Per Car: Georgia-Florida Interstate: Cement 70,740 lbs
110	6.5	2.80	7	5.5	10	12	35.75	15.40	46.61	50.90	50.00	84.89
120	6.5	3.20	7	5.5	10	12	35.75	17.60	46.61	50.90	50.00	84.89
130	7	3.20	7	6	10.4	12.5	38.50	17.60	46.61	55.52	52.00	88.43
140	7	3.40	7	6	10.4	12.5	38.50	18.70	46.61	55.52	52.00	88.43
150	7.5	3.40	7.5	6	10.8	13	41.25	18.70	49.94	55.52	54.00	91.96
160	7.5	3.40	7.5	6.5	10.8	13	41.25	18.70	49.94	60.15	54.00	91.96
170	8	3.70	8	6.5	11.2	13.5	44.00	20.35	53.26	60.15	56.00	95.50
180	8	8.33	8	6.75	11.2	13.5	44.00	45.82	53.26	62.46	56.00	95.50
190	8.5	8.33	8.5	6.75	11.6	14	46.75	45.82	56.59	62.46	58.00	99.04
200	8.5	8.33	8.5	6.75	11.6	14	46.75	45.82	56.59	62.46	58.00	99.04
210	9	8.67	9	7	12	14.5	49.50	47.69	59.92	64.78	60.00	102.57
220	9	8.67	9	7	12	14.5	49.50	47.69	59.92	64.78	60.00	102.57
230	9.5	9	9	7	12.4	15	52.25	49.50	59.92	64.78	62.00	106.11
240	9.5	9	9	7.5	12.4	15	52.25	49.50	59.92	69.41	62.00	106.11
250	10	9.17	9.5	7.5	12.8	15.5	55.00	50.44	63.25	69.41	64.00	109.65
260	10	9.17	9.5	7.5	12.8	15.5	55.00	50.44	63.25	69.41	64.00	109.65
270	10.5	9.50	10	8	13.2	16	57.75	52.25	66.58	74.03	66.00	113.18
280	10.5	9.50	10	8	13.2	16	57.75	52.25	66.58	74.03	66.00	113.18
290	11	9.67	10.5	8	13.6	16.5	60.50	53.19	69.91	74.03	68.00	116.72
300	11	9.83	10.5	8.25	13.6	16.5	60.50	54.07	69.91	76.35	68.00	116.72

Tariff Authorities: Agent J. H. Glenn's I. C. C. No. A-659 (Interstate—Logs)
Agent J. H. Glenn's I. C. C. No. A-730 (Brick); I. C. C. No. A-684 (Lime); I. C. C. No. A-718 (Cement); I. C. C. No. A-655 (Sand and Gravel).
A. C. L. R. R. I. C. C. B-2632 (Florida Intrastate—Logs).

Wilmington, N. C., July 16th, 1931

[fol. 2356]

EXHIBIT No. 125

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Comparing Atlantic Coast Line Railroad Per Car Revenue on Logs, Interstate, and in Florida, Intrastate, With Per Car Revenue on Other Commodities Moving Intrastate in Georgia. Carload Rates Expressed in Cents Per 100 Pounds.

	Rates						Revenue Per Car					
							Weights per car are actual average on A.C. L. R. R. during year 1925					
	Logs		Georgia Intrastate				Logs		Georgia Intrastate			
Miles	Interstate	Florida Intrastate	Common Brick	Gravel and sand	Lime	Cement	Interstate 55,000 lbs.	Florida Intrastate 55,000 lbs.	Brick 66,580 lbs.	Sand and gravel 92,540 lbs.	Lime 50,000 lbs.	Cement 70,740 lbs.
5	2.5	1.71	3	2.5	2.8	5	$13.75	$9.41	$19.97	$23.14	$14.00	$35.37
10	2.5	1.71	3	2.5	3.6	6	13.75	9.41	19.97	23.14	18.00	42.44
15	3	1.71	3.5	2.75	4.4	7.5	16.50	9.41	23.30	25.45	22.00	53.06
20	3	1.71	3.5	2.75	4.8	9	16.50	9.41	23.30	25.45	24.00	63.67
25	3.5	1.71	4	3	5.2	10	19.25	9.41	26.63	27.76	26.00	70.74
30	3.5	1.71	4	3	5.6	10	19.25	9.41	26.63	27.76	28.00	70.74
35	4	1.71	4.5	3.5	5.6	11	22.00	9.41	29.96	32.39	28.00	77.81
40	4	1.71	4.5	3.5	6	11	22.00	9.41	29.96	32.39	30.00	77.81
45	4.5	2.10	5	4	6.4	11	24.75	11.55	33.29	37.02	32.00	77.81
50	4.5	2.10	5	4	6.8	11	24.75	11.55	33.29	37.02	34.00	77.81
55	4.5	2.10	5	4	7.2	12	24.75	11.55	33.29	37.02	36.00	84.89
60	5	2.10	5	4	7.6	12	27.50	11.55	33.29	37.02	38.00	84.89
65	5	2.30	5.5	4.5	8	12.5	27.50	12.65	36.62	41.64	40.00	88.43
70	5	2.30	5.5	4.5	8.4	12.5	27.50	12.65	36.62	41.64	42.00	88.43
75	5.5	2.30	6	4.5	8.8	13	30.25	12.65	39.95	41.64	44.00	91.96
80	5.5	2.30	6	4.5	8.8	13	30.25	12.65	39.95	41.64	44.00	91.96
85	5.5	2.30	6.5	5	9.2	14	30.25	12.65	43.28	46.27	46.00	99.04
90	6	2.30	6.5	5	9.2	14	33.00	12.65	43.28	46.27	46.00	99.04
95	6	2.60	6.5	5	9.6	14	33.00	14.30	43.28	46.27	48.00	99.04

EXHIBIT No. 125—Continued

Miles	Rates: Logs Interstate	Rates: Logs Florida Intrastate	Rates: Georgia-Intrastate Common Brick	Rates: Georgia-Intrastate Gravel and sand	Rates: Georgia-Intrastate Lime	Rates: Georgia-Intrastate Cement	Revenue Per Car (Weights per car are actual average on A.C.L. R. R. during year 1925): Logs Interstate 55,000 lbs.	Logs Florida Intrastate 55,000 lbs.	Georgia Intrastate Brick 66,580 lbs.	Georgia Intrastate Sand and gravel 92,540 lbs.	Georgia Intrastate Lime 50,000 lbs.	Georgia Intrastate Cement 70,740 lbs.
100	6	2.60	6.5	5	9.6	14	33.00	14.30	43.28	46.27	48.00	99.04
110	6.5	2.80	7	5.5	10	15	35.75	15.40	46.61	50.90	50.00	106.11
120	6.5	3.20	7	5.5	10	15	35.75	17.60	46.61	50.90	50.00	106.11
130	7	3.20	7	6	10.4	16	38.50	17.60	46.61	55.52	52.00	113.18
140	7	3.40	7	6	10.4	16	38.50	18.70	46.61	55.52	52.00	113.18
150	7.5	3.40	7.5	6	10.8	16	41.25	18.70	49.94	55.52	54.00	113.18
160	7.5	3.40	7.5	6.5	10.8	16	41.25	18.70	49.94	60.15	54.00	113.18
170	8	3.70	8	6.5	11.2	17	44.00	20.35	53.26	60.15	56.00	120.26
180	8	8.33	8	6.75	11.2	17	44.00	45.82	53.26	62.46	56.00	120.26
190	8.5	8.33	8.5	6.75	11.6	17.5	46.75	45.82	56.50	62.46	58.00	123.80
200	8.5	8.33	8.5	6.75	11.6	17.5	46.75	45.82	56.50	63.46	58.00	123.80
210	9	8.67	9	7	12	18	49.50	47.69	59.92	64.78	60.00	127.33
220	9	8.67	9	7	12	18	49.50	47.69	59.92	64.78	60.00	127.33
230	9.5	9	9	7	12.4	19	52.25	49.50	59.92	64.78	62.00	134.41
240	9.5	9	9	7.5	12.4	19	52.25	49.50	59.92	69.41	62.00	134.41
250	10	9.17	9.5	7.5	12.8	19	55.00	50.44	63.25	69.41	64.00	134.41
260	10	9.17	9.5	7.5	12.8	19	55.00	50.44	63.25	69.41	64.00	134.41
270	10.5	9.50	10	8	13.2	20	57.75	52.25	66.58	74.03	66.00	141.48
280	10.5	9.50	10	8	13.2	20	57.75	52.25	66.58	74.03	66.00	141.48
290	11	9.67	10.5	8	13.6	21	60.50	53.19	69.91	74.03	68.00	148.55
300	11	9.83	10.5	8.25	13.6	21	60.50	54.07	69.91	76.35	68.00	148.55

Tariff authorities: Agent J. H. Glenn's I. C. C. No. A-659
Agent J. H. Glenn's I. C. C. No. A-716
A. C. L. Railroad's I. C. C. No. B-2632

Wilmington, N. C., July 16th, 1931.

(Here follows Exhibit 126, side folio 2357)

[fol. 2357]

EXHIBIT No. 126

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Comparing Atlantic Coast Line Railroad Per Car Revenue on Logs, Interstate, and in Florida Intrastate, with Per Car Revenue on Other Commodities Moving Intrastate in Florida. Carload Rates Expressed in Cents Per 100 Lbs. Weights Per Car Are Actual Average on A. C. L. R. R. During Year 1925.

	Rates							Revenue Per Car						
	Logs		Florida Intrastate					Logs		Florida Intrastate				
Miles	Interstate	Florida Intrastate	Common Brick Peninsula	Limestone	Sand	Lime	Cement	Interstate 55,000 lbs.	Florida Intrastate 55,000 lbs.	Brick 66,580 lbs.	Limestone, 92,540 lbs.	Sand 92,540 lbs.	Lime 50,000 lbs.	Cement 70,740 lbs.
5	2.5	1.71	3.5	2.70	2.38	6.20	4	$13.75	$9.41	$23.30	$24.99	$22.02	$31.00	$28.30
10	2.5	1.71	3.5	3	2.64	6.20	5	13.75	9.41	23.30	27.76	24.43	31.00	35.37
15	3	1.71	4	3.83	3.19	6.75	6	16.50	9.41	26.63	35.44	29.52	33.75	42.44
20	3	1.71	4	3.83	3.19	6.75	7	16.50	9.41	26.63	35.44	29.52	33.75	49.52
25	3.5	1.71	5	3.83	3.47	7.90	8	19.25	9.41	33.29	35.44	32.11	39.50	56.59
30	3.5	1.71	5	3.83	3.47	7.90	8	19.25	9.41	33.29	35.44	32.11	39.50	56.59
35	4	1.71	5.5	4.33	3.75	8.45	8.5	22.00	9.41	36.62	40.07	34.70	42.25	60.13
40	4	1.71	5.5	4.33	3.75	8.45	8.5	22.00	9.41	36.62	40.07	34.70	42.25	60.13
45	4.5	2.10	6	4.50	4.17	9	9	24.75	11.55	39.95	41.64	38.59	45.00	63.67
50	4.5	2.10	6	4.50	4.17	9	9	24.75	11.55	39.95	41.64	38.59	45.00	63.67
55	4.5	2.10	6	5	4.31	9.60	9.5	24.75	11.55	39.95	46.27	39.88	48.00	67.20
60	5	2.10	6	5	4.31	9.60	9.5	27.50	11.55	39.95	46.27	39.88	48.00	67.20
65	5	2.30	6.5	5.17	4.44	10.15	10	27.50	12.65	43.28	47.84	41.09	50.75	70.74
70	5	2.30	6.5	5.17	4.44	10.15	10	27.50	12.65	43.28	47.84	41.09	50.75	70.74
75	5.5	2.30	7	5.33	4.44	10.70	10.5	30.25	12.65	46.61	49.32	41.09	53.50	74.28
80	5.5	2.30	7	5.33	4.44	10.70	10.5	30.25	12.65	46.61	49.32	41.09	53.50	74.28
85	5.5	2.30	8	5.67	4.86	11.25	11	30.25	12.65	53.26	52.47	44.97	56.25	77.81
90	6	2.30	8	5.67	4.86	11.25	11	33.00	12.65	53.26	52.47	44.97	56.25	77.81
95	6	2.60	8	5.83	5.14	11.85	11.5	33.00	14.30	53.26	53.95	47.57	59.25	81.35
100	6	2.60	8	5.83	5.14	11.85	11.5	33.00	14.30	53.26	53.95	47.57	59.25	81.35
110	6.5	2.80	8.5	6	5.14	11.85	12	35.75	15.40	56.50	55.52	47.57	59.25	84.89
120	6.5	3.20	8.5	6.50	5.56	12.40	12	35.75	17.60	56.50	60.15	51.45	62.00	84.89
130	7	3.20	8.5	6.67	5.60	12.40	12.5	38.50	17.60	56.50	61.72	52.66	62.00	88.43
140	7	3.40	8.5	6.83	5.69	12.95	12.5	38.50	18.70	56.50	63.20	52.66	64.75	88.43
150	7.5	3.40	9	6.83	6.11	12.95	13	41.25	18.70	59.92	63.20	56.54	64.75	91.96
160	7.5	3.40	9.5	7.33	6.25	13.50	13	41.25	18.70	63.25	67.83	57.74	67.50	91.96
170	8	3.70	10	7.67	6.67	13.50	13.5	44.00	20.35	66.58	70.98	61.72	67.50	95.50
180	8	8.33	10	7.67	6.67	14.10	13.5	44.00	45.82	66.58	70.98	61.72	70.50	95.50
190	8.5	8.33	10.5	8	6.81	14.10	14	46.75	45.82	69.91	74.03	63.02	70.50	99.04
200	8.5	8.33	10.5	8	6.84	14.10	14	46.75	45.82	69.91	74.03	63.02	70.50	99.04
210	9	8.67	11	8.17	6.94	14.10	14.5	49.50	47.69	73.24	75.61	64.22	70.50	102.57
220	9	8.67	11	8.17	6.94	14.10	14.5	49.50	47.60	73.24	75.61	64.22	70.50	102.57
230	9.5	9	11	8.33	6.94	14.10	15	52.25	49.50	73.24	77.09	64.22	70.50	106.11
240	9.5	9	11	8.33	6.94	14.10	15	52.25	40.50	73.24	77.09	64.22	70.50	106.11
250	10	9.17	11.5	8.33	7.22	14.10	15.5	55.00	50.44	76.57	77.09	66.81	70.50	109.65
260	10	9.17	11.5	8.33	7.22	14.10	15.5	55.00	50.44	76.57	77.09	66.81	70.50	109.65
270	10.5	9.50	12	8.67	7.36	14.10	16	57.75	52.25	79.90	80.23	68.11	70.50	113.18
280	10.5	9.50	12	8.67	7.36	14.65	16	57.75	52.25	79.90	80.23	68.11	73.25	113.18
290	11	9.67	12.5	8.83	7.50	14.65	16.5	60.50	53.19	83.23	81.71	69.41	73.25	116.72
300	11	9.83	12.5	8.83	7.64	14.65	16.5	60.50	54.07	83.23	81.71	70.70	73.25	116.72

Tariff Authorities: Agent J. H. Glenn's I. C. C. No. A-659
Agent J. H. Glenn's I. C. C. No. A-732
A. C. L. Railroad I. C. C. No. B-2632

Wilmington, N. C., July 16th, 1931.

[fol. 2358]

EXHIBIT No. 127

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing Number of Cars and Tons of Lumber, Shingles, Laths, Box, Crate and Cooperage Material Originated at All Points in Southern District and at All Points in the United States During Each Calendar Year 1920 to 1930, Inclusive; Also for the Same Years Tons Handled by Atlantic Coast Line Railroad, with Its Revenue Derived Therefrom.

	Southern District		United States		Atlantic Coast Line	
	Cars	Tons	Cars	Tons	Tons	Revenue
1920	672,449	17,708,828	1,798,324	48,617,871	2,665,512	$5,503,389.44
1921	514,378	13,079,620	1,340,080	34,877,583	2,165,756	5,354,182.74
1922	676,330	17,500,201	1,653,048	43,506,524	3,263,984	7,615,857.54
1923	838,858	21,954,713	2,000,380	53,540,057	3,884,881	8,772,145.80
1924	805,691	20,576,531	1,848,168	48,604,974	3,632,811	8,000,915.37
1925	797,775	20,311,619	1,864,250	49,015,498	3,751,016	8,092,819.86
1926	746,990	19,070,270	1,748,935	46,065,081	3,353,023	7,960,375.45
1927	713,838	18,208,713	1,625,133	42,858,471	3,045,574	6,962,342.67
1928	702,766	17,872,965	1,618,161	42,508,620	3,093,168	6,641,449.38
1929	677,141	17,403,907	1,534,996	40,565,975	3,109,401	6,750,434.28
1930	446,883	11,395,877	1,048,083	27,584,148	2,211,258	4,711,383.72

Authority for Statistics Shown for the United States and for Southern District

Year — Interstate Commerce Commission

1920 34th Annual Report on the Statistics of Railways in the United States for the year ending December 31.
1921 35th Annual Report on the Statistics of Railways in the United States for the year ending December 31
1922 36th Annual Report on the Statistics of Railways in the United States for the year ending December 31.
1923 37th Annual Report on the Statistics of Railways in the United States for the year ending December 31.
1924 Statement No. 25100, Freight Commodity Statistics Class I Steam Railways in the United States, year ended December 31.
1925 Statement No. 26100, Freight Commodity Statistics Class I Steam Railways in the United States, year ended December 31.
1926 Statement No. 27100 Freight Commodity Statistics Class I Steam Railways in the United States, year ended December 31.

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1927 Statement No. 28100, Freight Commodity Statistics Class I Steam Railways in the United States, year ended December 31.
1928 Statement No. 29100, Freight Commodity Statistics Class I Steam Railways in the United States, year ended December 31.
1929 Statement No. 30100, Freight Commodity Statistics Class I Steam Railways in the United States, year ended December 31.
1930 Freight Commodity Statistics of Class I Steam Railways in the United States. Quarterly statements, consolidated statement similar to No. 30100 not yet having been distributed by the Commission.

Wilmington, N. C., July 16, 1931.

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[fol. 2360]

EXHIBIT No. 128

I. C. C. Docket No. 18364

Witness: Perrin

Statement Showing Number of Cars of Long Length Logs Moved Between Points on Atlantic Coast Line Railroad in Florida During the Period February 1, 1931 to June 30, 1931, Inclusive.

To	From	No. Cars
Jacksonville	Dyal	1
"	Rital	1
"	Hague	1
"	Gracys	1
"	Gainesville	22
"	Rochelle	4
"	Gulf Hammock	2
"	Grove Park	2
"	Martin	4
"	Bares Siding	4
"	Astor Park	13
"	Astor	8
"	Raiford	1
"	Lake Butler	67
"	Dukes	1
"	Santa Fe	2
"	Cross City	1
Palatka	Orange Park	1
"	Doctors Inlet	1
"	Sanford	6
"	Hague	2
"	Gainesville	9
"	Rochelle	31
"	Chiefland	7
"	Hollister	1
"	Grove Park	9
"	Deland	8
"	Raiford	1
"	Lake Butler	1
"	Hines	1,831
"	Tarrytown	5
Buffalo Bluff	Russell	3
"	Walkill	3
"	Rochelle	4
Perry	Miccosukee	11
"	Gainesville	1
"	Cross City	73
"	Hines	32
"	Clara	25
"	Carbur	22
"	Lamont	72
"	Lacoochee	8
"	Mt. Plymouth	1
Lake City	Branford	2
"	Half Moon	1
Gainesville	Hildreth	1
Lacoochee	Half Moon	1
"	Hooper	23
"	Istachatta	69
St. Petersburg	Rital	2
Apopka	Rital	1
Tampa	Hague	1
Sanford	Gainesville	1

EXHIBIT No. 128—Continued

To	From	No. Cars
Cross City	Rochelle	21
"	Otter Creek	24
"	Secotan	57
Kissimmee	Brooksville	2
"	Astor Park	1
Loughman	Graf	14
"	Lisbon	30
"	Altoona	5
"	Bares Siding	26
"	Astor Park	66
"	Astor	74
"	Mt. Homer	1
"	Howey	3
"	Bradford Farm	1
"	Minneola	4
"	Mt. Plymouth	1
Leesburg	Walling	5
"	Sorrento	2
Bonds Mill	Cassia	2
"	Mt. Plymouth	6
Nocatee	Gardner	14
Total number cars		2,765

Wilmington, N. C., July 10, 1931.

[fol. 2361]

EXHIBIT No. 131

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Property Investment and Operating Income Account

Atlantic Coast Line Railroad Company, Florida East Coast Railway Company, and Seaboard Air Line Railway Company for Calendar Years 1922, 1926, and 1930

	1922	1926	1930	Increase or Decrease 1930 vs 1922		Increase or Decrease 1930 vs 1926	
				Amount	Percent	Amount	Percent
1. Property Investment as at End of Year							
2. Investment in Road and Equipment (Acct. 701)	$462,815,488.84	$609,828,816.77	$634,425,121.45	$171,609,632.61	37.08	$24,596,304.68	4.03
3. Material and Supplies (Acct. 716)	12,607,766.04	20,372,344.20	11,993,667.80	614,098.24R	4.87R	8,378,676.40R	41.13R
4. Total	475,423,254.88	630,201,160.97	646,418,789.25	170,995,534.37	35.97	16,217,628.28	2.57
5. Cash (Acct. 708)	27,020,445.54	18,406,684.15	17,801,532.53	9,218,913.01R	34.12R	605,151.62R	3.29R
6. Grand Total	502,443,700.42	648,607,845.12	664,220,321.78	161,776,621.36	32.20	15,612,476.66	2.41
7. Operating Income Account							
8. Average Mileage Operated—Miles	9,192.90	9,183.69	10,515.47	1,322.57	14.39	1,331.78	14.50
9. Total Operating Revenues	$129,930,017.79	$193,538,830.50	$124,428,816.71	$5,501,201.08R	4.23R	$69,110,013.79R	35.71R
10. Freight (Acct. 101)	88,854,367.08	134,021,439.71	92,193,899.95	3,339,532.87	3.76	41,827,539.76R	31.21R
11. Passenger (Acct. 102)	28,579,395.59	42,249,799.64	19,741,067.36	8,838,328.23R	30.93R	22,508,732.28R	53.28R
12. Mail (Acct. 106)	2,843,044.00	3,177,746.22	3,248,824.79	405,780.79	14.27	71,078.57	2.24
13. Express (Acct. 107)	5,224,765.98	6,330,479.25	4,186,971.91	1,037,794.07R	19.86R	2,143,507.34R	33.86R
14. All other Revenues	4,428,445.14	7,759,365.68	5,058,052.70	629,607.56	14.22	2,701,312.98R	34.81R
15. Total Operating Expenses	$97,688,157.03	$140,361,370.53	$97,949,538.57	$261,381.54	.27	$42,411,831.96R	30.22R
16. Maintenance of Way and Structures	15,956,566.09	26,908,258.98	18,686,231.92	2,729,665.83	17.11	8,222,027.06R	30.56R
17. Maintenance of Equipment	25,190,567.47	32,965,494.74	24,055,464.91	1,135,102.56R	4.51R	8,910,029.83R	27.03R
18. Traffic	2,916,058.59	4,669,503.51	4,715,829.96	1,799,771.37	61.72	46,326.45	0.99
19. Transportation	48,886,100.64	69,913,361.51	44,685,492.50	4,200,608.14R	8.59R	25,227,869.01R	36.08R
20. General	3,932,726.53	5,068,614.91	4,658,340.22	725,613.69	18.45	410,274.69R	8.09R
21. All other Expenses	806,137.71	836,136.88	1,148,179.06	342,041.35	42.43	312,042.18	37.32
22. Operating Ratio—Percent	74.34	71.87	77.36	3.53	4.69	6.20	8.55
23. Net Operating Revenues	$32,241,860.76	$53,177,459.97	$26,479,278.14	$5,762,582.62R	17.87R	$26,698,181.83R	50.21R
24. Railway Tax Accruals	$7,168,609.13	$11,766,936.46	$10,253,055.66	$3,084,446.53	43.03	$1,513,880.80R	12.87R
25. Uncollectible Railway Revenues	91,733.87	55,761.07	57,759.02	33,974.85R	37.03R	1,997.95	3.58
26. Railway Operating Income	$24,981,517.76	$41,354,762.44	$16,168,463.46	$8,813,054.30R	35.28R	$25,186,298.98R	60.90R
27. Hire of Equipment—Net Balance	$3,375,932.90R	$6,327,932.53R	$1,906,962.58R	$1,468,970.32	43.51	$4,420,969.95	69.86
28. Joint Facility Rents—Net Balance	259,385.43R	259,364.91R	163,904.43R	96,381.00	37.16	96,360.48	37.15
29. Net Railway Operating Income	$21,346,199.43	$34,767,465.00	$14,098,496.45	$7,247,702.98R	33.95R	$20,668,968.55R	59.45R

Wilmington, N. C., July 14th, 1931-1. R Indicates red figures or decrease. Authority: Annual Reports to Railroad Commission, State of Florida.

[fol. 2362]

EXHIBIT No. 132

I. C. C. Docket No. 18364

Witness: Geo. W. Lamb

Atlantic Coast Line Railroad Company

Property Investment and Operating Revenues, State of Florida

(a)	1922 (b)	1926 (c)	1930 (d)	Increase or Decrease, 1930 over 1922 Amount (e)	Percent (f)	Increase or Decrease, 1930 over 1926 Amount (g)	Percent (h)
1. Investment in Road and Equipment (Account 701)	$73,861,039.09	$96,628,158.40	$105,514,014.41	$31,652,975.32	42.85	$8,885,856.01	9.20
2. Total Operating Revenues	17,851,388.48	30,330,194.04	16,334,490.05	1,516,898.43x	8.50x	13,995,703.99x	46.14x
3. Freight (101)	11,959,891.14	21,603,014.55	11,960,371.20	480.06	.....	9,642,643.35x	44.64x
4. Passenger (102)	3,847,407.42	5,955,199.64	2,105,892.97	1,741,514.45x	45.26x	3,849,306.67x	64.64x
5. Mail (106)	359,507.27	397,745.73	431,819.21	72,311.94	20.11	34,073.48	8.57
6. Express (107)	962,164.07	1,079,753.62	777,134.49	185,029.58x	19.23x	302,619.13x	28.03x
7. All Other Revenue	722,418.58	1,294,480.50	1,059,272.18	336,853.60	46.63	235,208.32x	18.17x
8. Total Intrastate Operating Revenues	$7,956,985.43	$13,885,116.40	$6,560,653.37	$1,396,332.06x	17.55x	$7,324,463.03x	52.75x
9. Freight (101)	5,027,825.86	10,297,598.26	4,852,183.15	175,642.71x	3.49x	5,445,415.11x	52.88x
10. Passenger (102)	2,209,202.85	2,440,941.40	540,847.67	1,668,355.18x	75.52x	1,900,093.73x	77.84x
11. Mail (106)	107,852.18	119,323.71	129,545.74	21,693.56	20.11	10,222.03	8.57
12. Express (107)	288,649.21	323,926.08	159,711.76	128,937.45x	44.67x	164,214.32x	50.69x
13. All Other Revenues	323,455.33	703,326.95	878,365.05	554,909.72	171.56	175,038.10	24.89
14. Total Interstate Operating Revenues	$9,894,403.05	$16,445,077.64	$9,773,836.68	$120,566.37x	1.22x	$6,671,240.96x	40.57x
15. Freight (101)	6,932,065.28	11,305,416.29	7,108,188.05	176,122.77	2.54	4,197,228.24x	37.13x
16. Passenger (102)	1,638,204.57	3,514,258.24	1,565,045.30	73,159.27x	4.47x	1,949,212.94x	55.47x
17. Mail (106)	251,655.09	278,422.02	302,273.47	50,618.38	20.11	23,851.45	8.57
18. Express	673,514.86	755,827.54	617,422.73	56,092.13x	8.33x	138,404.81x	18.31x
19. All Other Revenue	398,963.25	591,153.55	180,907.13	218,056.12x	54.66x	410,246.42x	69.40x

x Indicates a decrease.

Authority: Annual Reports to Railroad Commission, State of Florida, plus lines operated under lease and contract whose earnings are included in Atlantic Coast Line Railroad returns.

Wilmington, N. C., July 18th, 1931-1

LAMB EXHIBIT No. 133

I. C. C. Docket No. 18364

Statement Showing Consist of Log Trains Operating Between Hines and Palatka on Atlantic Coast Line Railroad, Month of November, 1930.

Contents	Between Hines and Palatka	Number of cars		Car miles		Tonnage		Ton-miles	
		Loaded	Empty	Loaded	Empty	Net	Tare	Net	Tare
	Logs								
Logs	Northbound (13 trips)	490	14	57,820	1,652	15,680	8,282		
Empty	Southbound (12 trips)	...	466	.....	54,988	.....	7,690		
	Total Logs	490	480	57,280	56,640	15,680	15,972	1,850,240	1,884,696
	Other								
Empty	Palatka to Newberry	0	69	.....	5,313	.....	1,394	.....	107,338
"	Palatka to N. Diamond	0	4	....	76	.....	80	.....	1,520
Feed	Palatka to Hines	3	0	354	0	22	60	2,596	7,080
Lumber	Palatka to Hines	1	0	118	0	8	16	944	1,788
Hampers	Gainesville to Palatka	2	0	98	0	24	47	1,176	2,303
Co. Coal	Gainesville to Palatka	1	0	49	0	12	21	588	1,029
Hogs	Burnetts Lake to Palatka	1	0	64	0	15	19	960	1,193
	Total	498	553	58,503	62,029	15,761	17,609	1,856,504	2,006,947
	Grand Total	1,051		120,532		33,370		3,863,451	

"Out of Pocket Expenses"

392—Train Enginemen	$506.19
394—Fuel for Train Locomotives	1,138.49
397—Water for Train Locomotives	39.50
398—Lubricants for Train Locomotives	8.27
399—Other Supplies for Train Locomotives	8.82
400—Enginehouse Expenses—Train	19.05
401—Trainmen	562.86
402—Train Supplies and Expenses	115.37
Total	$2,398.55

[fol. 2364] August G. Gutheim, Attorney at Law, Number 8 Jackson Place, Washington, D. C.

August 3, 1931.

Hon. George B. McGinty,
Secretary, Interstate Commerce Commission,
Washington, D. C.

In re I. C. C. 18364, Georgia Public Service Commission v. Atlantic Coast Line R. R. et al.

Dear Sir: At the hearing in the above-entitled proceeding, held in Washington July 20-21, 1931, permission was granted by presiding Examiner Hoy to intervening Florida log shippers to file as rebuttal testimony on their behalf, the testimony of Witness W. D. McCaig and G. H. Parker in Docket No. 16939, Railroad Commissioners of Florida v. Aberdeen and Rockfish Railroad Company et al., wherein the Atlantic Coast Line Railroad Company was one of the defendants.

I submit herewith on behalf of the intervening Florida log shippers as a supplementary exhibit, the testimony in transcript pages as follows:

Witness W. D. McCaig, pp. 1220-1221, also pp. 1262-1270 inclusive.

Witness G. H. Parker, pp. 1612-1627 inclusive; also p. 1702.

The original copy as submitted herewith has been certified under the seal of the Commission. A copy of this exhibit has been forwarded to all appearances of record this date.

Yours truly, August G. Gutheim.

Copy for Messrs: E. C. Green, Thos. D. Guthrie and R. W. Bennett, T. T. Turnbull, T. M. True, J. V. Norman, Robert C. Alston, E. M. Price, H. P. Adair. (Tr. p. 1520.)

[fol. 2365] Interstate Commerce Commission, Washington

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of pages 1220 and 1221; pages 1262 to 1270, inclusive; pages 1612 to 1627, inclusive; and page 1702 of the transcript of the stenographer's notes of the hearing

held at Jacksonville, Fla., before Examiner Hillyer, April 21 and 26, 1926, in Docket No. 16939, Railroad Commissioners of the State of Florida v. Aberdeen & Rockfish Railroad Company, et al., the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 30th day of July, A. D. 1931. (Signed) George B. McGinty, Secretary of the Interstate Commerce Commission.

Copy.

[fol. 2366] 1220

A. I am not familiar with the marketing of the California crop, Mr. Marshall, but I do not see, so far as I know the situation, where that is any great boon over the similar service that the Florida shippers enjoy.

Q. Would you say or not that the blanket adjustment of rates, or the blanket rate, has advantages over specific rates? By that I mean rates from almost every origin point to almost every individual market to which shipments might move?

A. I don't see where it is any big advantage.

Q. You don't think so?

A. No, sir, but at the same time, Mr. Marshall, I want you to understand that I am not a rate expert, and really am not familiar enough with the rates to fully comprehend what is implied in blanket rates and specific rates.

Mr. Marshall: That is all.

Exam. Hillyer: Are there any further questions?

(No response.)

(Witness excused.)

W. D. McCaig was thereupon called as a witness, and having been duly sworn, testified as follows:

Direct examination.

By Mr. Gwathmey:

Q. Please state your name and address.

A. W. D. McCaig, Wilmington, N. C.

[fol. 2367] 1221

Q. What is your present position?

A. Comptroller of the Atlantic Coast Line Railroad Company.

Q. What has been your experience as a railroad accountant?

A. I have been employed in the Accounting Department of the Atlantic Coast Line Railroad Company and its predecessor companies for a period of thirty-three years. During this time I have successively filled the positions of Stenographer, Clerk, Traveling Auditor, Auditor of Station Accounts, Assistant Auditor of Freight Receipts, Assistant Comptroller, and Comptroller. I have filled the last named position for two years.

Q. What has been your particular connection with this case?

A. Some time after this complaint was filed a committee of railway accounting officers was appointed to give attention to any accounting features that might develop in connection with this case. I was appointed and have subsequently served as chairman of that committee.

Q. In testifying in this case, therefore, you are doing so as a representative of all of the carriers defendants in this case?

A. I do, but more particularly the carriers initial to Florida, who originate the traffic involved in this case.

Q. Are you familiar with the complaint filed in this case and with the testimony given in support thereof by Mr. C. W. Oliver, who is employed by Interveners in this case?

[fol. 2368] 1262

of the expenses to the several commodities named. While it is not specifically claimed by this witness that the results, which he arrives at, reflect in any way the operations of the Atlantic Coast Line Railroad or the Seaboard Air Line Railway in the State of Florida, it might be well, at this time, through an abundance of caution, to point out certain fundamental operating conditions existing on the Florida East Coast Railway on the one hand and the Atlantic Coast Line Railroad and the Seaboard Air Line Railway on the other hand, for instance:

There has been introduced by a number of witnesses in this case maps showing in detail the lines operated by each of these carriers in the State of Florida. From these maps one can readily see that the operations of the Florida East Coast Railway, within the State of Florida, are essentially main line operations, while the operations of the Atlantic Coast Line Railroad and the Seaboard Air Line Railway, within the State of Florida, are to a large extent branch line operations. These branch lines are of a very low traffic density and transportation costs thereon correspondingly higher.

In the operations of a single main track railroad it is possible to reach a point of saturation where added traffic can only be handled by the construction of a second main track. At this point of saturation the per unit cost of

[fol. 2369] 1263

handling traffic should be at its lowest level and the net railway operating income at its highest level. Such a point of saturation was reached on the Florida East Coast Railway during the years 1923 and 1924. As a consequence thereof the Florida East Coast Railway has been engaged for several years in the construction of a second main track between Jacksonville and Miami. This has, and will continue to adversely affect their maintenance charges and capital charges. The point here stressed, however, is that it is manifestly improper to compare the operations of the Florida East Coast Railway, at this point of saturation, or peak, with the operations of the Atlantic Coast Line Railroad and the Seaboard Air Line Railway within the State of Florida, which roads have not yet reached that state of development.

Up to the close of the year 1924 the Florida East Coast Railway occupied a very desirable situation in that their territory was almost wholly free from rail line competition, which condition has a tendency to reduce operating costs.

The Florida East Coast Railway, by reason of its location, is the only line in Florida, which to any extent handles trans-state traffic, that is, traffic having neither origin nor destination within the state.

Again, on this perishable traffic, practically all the diversions take place after the cars leave the lines of the Florida East Coast Railway.

[fol. 2370] 1264

For these, and other reasons, we contend that the operations of the Florida East Coast Railway are not comparable with those of the Atlantic Coast Line Railroad and the Seaboard Air-Line Railway within the State of Florida.

Q. On Sheet 27 of Mr. Oliver's exhibit he compares reproduction values of the Atlantic Coast Line Railroad and the Seaboard Air Line Railway as of date of valuation as taken from the Engineering and Land Reports of the Valuation Section of the Commission for the entire line and the State of Florida. What comment have you to make as to this sheet?

A. As to the accuracy of the figures, I repeat that they are being contested. As to the comparisons between the value of the lines in Florida with the entire lines and the lines outside of Florida—I also repeat that in these calculations the Commission has used quantities as of date of valuation and prices as of 1914, and that a restatement of these costs on basis of present day values would present a different picture. It is also a fact that since date of valuation the expansion, improvement and betterments on these lines in Florida have been greater than on the balance of these lines. It also should be borne in mind in considering this data that, many facilities in other states were constructed to expedite the handling of Florida traffic, a notable instance being the double track of the Atlantic Coast Line

[fol. 2371] 1265

Jacksonville to Richmond. Another factor for consideration in this connection is the large amount of branch line mileage incorporated in the mileage of these two lines within the State of Florida the construction of which is somewhat lighter than main line mileage and which acts as a feeder for main lines in other states. It is, therefore, neither logical nor practical to segregate values of railroads in this manner, and this fact is recognized in Mr. Oliver's testimony (page 870) when he says in connection with this data:

"All of these facts considered as a whole would indicate that part of the operation within the State of Florida, in-

cluding capital costs, can be carried on at substantially the same cost as on the entire lines of the Atlantic Coast Line and the Seaboard Air Line."

As to maintenance and capital costs, no contention has, or will be made by the defendant carriers that these particular costs are higher on the lines in the State of Florida than on the system as a whole.

Q. On Sheet 28, Exhibit No. 19, is shown for the Atlantic Coast Line Railroad and Seaboard Air Line Railway certain operating statistics taken from the reports of these lines to the Interstate Commerce Commission and the Railroad Commission, State of Florida, a comparison being made between the statistics for the entire line and the State of Florida.

[fol. 2372] 1266

What comments have you to make regarding this sheet?

A. As to the maintenance of way and structure expenses per mile of road for the Atlantic Coast Line Railroad for the years 1920 to 1924 inclusive, shown by this sheet, I desire to state that the figures are taken from the reports of that Company for those years to the Railroad Commission, State of Florida. In said reports there is a foot note explaining that operating expenses are assigned to the states by the Atlantic Coast Line Railroad Company on basis of operating ratio of the entire line, these maintenance expenses varying between states according to the revenues earned in each state, which revenues are assigned on an actual basis. A mileage pro-rate of the actual revenue being assigned to each state.

It is therefore not proper to use the Atlantic Coast Line Railroad figures in the manner done in this case. It is probably true, however, that the maintenance of way and structure expenses of both the Atlantic Coast Line Railroad and the Seaboard Air Line Railway are slightly less in the State of Florida than for the entire line per mile of road. As is well known maintenance of roadway and tracks is influenced to a large extent by the use of the track, and the use of a track in Florida as compared with other states and of the entire line of these carriers is reflected in my Exhibit No. 44, which I will introduce

[fol. 2373] 1267

at this time showing for the years 1924 and 1925 tons one mile per mile of road of the Atlantic Coast Line Railroad Company and the Seaboard Air Line Railway Company for the entire line and for the six states through which these lines operate. From this it will be seen that for the Atlantic Coast Line Railroad Company the traffic density for the entire line for the year 1924 was 35% greater than for the State of Florida and for the year 1925 23% greater than for the State of Florida. For the Seaboard Air Line Railway Company the traffic density for the entire line for the year 1924 was 17% greater than for the State of Florida and for the year 1925 7% greater than for the State of Florida. It will also be noted that for the Atlantic Coast Line Railroad Company the traffic density per mile of road in the State of Florida was substantially below that of any state through which it operates. This was also true of the Seaboard Air Line Railway Company except as to the State of Georgia, the traffic density of their lines between Montgomery, Ala., and Savannah, Ga., depressing the average of that State.

The traffic density of Florida has always been below that of any other state in the South and must necessarily be so, from its geographic location, being almost surrounded by water and having access by rail from the major portion of the state only in one direction. As previously stated, its

[fol. 2374] 1268

trans-state traffic is infinitesimal as compared with that of other Southern States.

Practically every shipment transported within the State of Florida involves one or more terminal handlings. A major portion of its mileage is branch lines with relatively lower traffic density and correspondingly higher operating costs. All fuel used by carriers operating in Florida is hauled long distances; its coal coming from Tennessee and Northern Alabama and its fuel oil from Mexico, involving long hauls as compared with other states. For the reasons stated operating costs in the state of Florida must of necessity be greater than the operating costs of other states, even though the maintenance of way and structures expenses of the roads operating in the State

of Florida might be slightly less than for the other states.

Q. Have you made an investigation to show amounts paid by the Atlantic Coast Line Railroad Company to shippers in the matter of claims received in connection with the handling of perishable traffic moving from Florida?

A. I have made such a study and have prepared and submit at this time my exhibit No. 45, showing separately for the commodities involved in this complaint and for all other commodities for the years 1924 and 1925, the total number of cars handled, the Atlantic Coast Line Railroad Company's freight revenue thereon, the total loss and damage claims

[fol. 2375] 1269

paid and charged to the operating expenses of the Atlantic Coast Line Railroad Company, loss and damage paid per car and the ratio of loss and damage claims payments to revenue. It will be noted that the loss and damage claim payments per car on the traffic involved in this case as a whole for the year 1924 was $5.06 as compared with 50c. per car on other commodities. For the year 1925, $4.92 per car compared with 45c. per car for all other commodities, and that the ratio of loss and damage payments to revenue for the year 1924 for the commodities involved in this case was 3.50% as compared with .83 for all other commodities, and for the year 1924 3.37% as compared with .69 on all other commodities.

Q. Mr. McCaig, I want to make the record entirely clear, and I think in the course of your statement your language might have been construed as meaning that this claim statement relates only to citrus fruits and vegetables moving out of Florida. Is it so confined, or does it include other perishables handled by the Atlantic Coast Line?

A. It includes all of the traffic handled by the Atlantic Coast Line. As a matter of fact, however, the Atlantic Coast Line handle no grape fruit and very few cars of oranges originating in any territory other than Florida.

Q. Mr. McCaig, Mr. Pettijohn would like to know whether the claims paid shown on this exhibit represent claims ac-

[fol. 2376] 1270

tually paid and borne by the Atlantic Coast Line, or whether it includes claims accruing to all lines?

A. The revenue shown on this statement is the revenue of the Atlantic Coast Line, and the claims shown thereon are the amounts actually paid and charged to operating expenses of the Atlantic Coast Line.

By Mr. Marshall:

Q. That $5.06 then, Mr. McCaig, is only your proportion of the claim?

A. That is true.

Q. And the actual amount of the claim per car is greater than that, isn't it?

A. Assuming that other carriers involved in the handling of this traffic participated in the settlement of claims, that is true.

Q. The major portion of the citrus traffic reaches markets beyond the terminals of the Atlantic Coast Line, does it not?

A. Yes, sir.

By Mr. Gwathmey:

Q. Mr. McCaig, have you prepared any study tending to show for the carriers serving the State of Florida an increased operating cost during recent years as reflected by the item of employees and compensation of employees?

A. I have prepared and file at this time, my Exhibit No. 46, showing for the Atlantic Coast Line Railroad, Seaboard Air

[fol. 2377] 1612

A. That is correct.

Exam. Hillyer: Are there any further questions?

(No response.)

Exam. Hillyer: You are excused.

(Witness excused.)

Mr. Gwathmey: Our next witness will be Mr. Parker.

GEORGE H. PARKER was thereupon called as a witness, and being first duly sworn, testified as follows:

Direct examination.

By Mr. Gwathmey:

Q. Please state your name, address and present employment.

A. George H. Parker, International Building, 1319 F Street N. W., Washington, D. C.

I have been a railroad man for about 25 years, and for about the past four years of which I have been engaged in private practice, analyzing financial, operating and accounting data, primarily during that period engaged as a transportation analyst, I may say.

Prior to my present private practice I was comptroller of the Philadelphia & Reading for about two years; prior to that comptroller of the United States Railroad Administration, and financial assistant to the Director General during Mr. Hines' administration, and Mr. Hines' assistant when he was Assistant Director General.

Prior to that I was assistant to vice president of the Dela-

[fol. 2378] 1613

ware & Hudson Company for about six years, in charge of the accounting department of its system, embracing all of its properties, except the coal department, including its steam railroads, trolley properties, hotel properties, and steamboat companies.

Prior to that I had several years' experience on large and small roads in construction, accounting, traffic and operating work, principally in the west and southwest.

I am an honorary member of the American Railway Accounting Officers' Association, and member of the District of Columbia Bar.

Q. What is your connection with the defendants in the present proceeding?

A. I was employed by them to make an examination of the facilities employed in connection with the movement of perishable traffic originating in Florida, to examine the operating conditions, and to prepare, so far as practicable, a cost study relating to such traffic.

Q. Have you made such examination?

A. I have. I might say that it was contemplated, in view of the fact that through rates were under attack, that my examination would extend to the operating conditions, et cetera, in the originating territory, and also, so far as necessary in order to produce a satisfactory showing of the situation, a study of the through movement. For the purposes of my analysis I made a detailed examination of the operating conditions on

[fol. 2379] 1614

the ground in order to determine exactly where the perishable traffic originated and how it was handled; the kind of service afforded it; and, generally speaking, all the circumstances surrounding it.

My examination extended to pretty general survey of the whole originating territory. I spent some time in the offices of the division superintendents of the Atlantic Coast Line for the Jacksonville district, at Sanford; for the Lakeland and Tampa districts at Lakeland; and for the Gainesville district, at Gainesville.

I also spent considerable time in the division superintendent's office of the Seaboard Air Line at Tampa; and in the general superintendent's office of the Florida East Coast at St. Augustine.

In addition to the inquiry which I prosecuted in these offices, I went over most of the lines in Florida whereon the perishable traffic moves and made a close inquiry at individual points so as to get all the facts possible bearing on the situation.

At many of the individual points where perishable traffic originates in quantities, I made extended inquiries of yardmasters, agents, and others cognizant of the facts; and acquired a great deal of information through these inquiries and also by personal observation on the ground.

In addition, I studied the yard movements at important yards where involved in this inquiry. Individual points particular-

[fol. 2380] 1615

ly studied, and which seemed to afford sufficient basis to indicate that they are illustrative of the general situation, were points on the Tampa Northern and the Tampa & Gulf

Coast; points on the Barasota branch of the Seaboard; Sanford on the Coast Line and territory immediately surrounding it; Lakeland, Bartow, Lake Wales and Haines City on the Coast Line.

The yards studied embraced Sanford, Lakeland, and Haines City on the Coast Line; and Plant City, Tampa and Wildwood on the Seaboard.

I made some observation of the situation at Miami on the Florida East Coast, and there was also made under my direction some analysis of the yards at Buena Vista, Port Pierce, and New Smyrna on the Florida East Coast.

What I have said relates to the originating territory proper.

I also made observations in the yards of the Coast Line at Jacksonville, through which the traffic coming off the Jacksonville district moves for movement to the north; and High Springs, which is the yard through which the traffic moves coming off the Lakeland and Gainesville districts of the Coast Line.

Also, as regards the Coast Line, I made observations on the ground of the operation of the Waycross yard, which is the important diversion point of the Coast Line.

I also made observations of the movement of the perishable

[fol. 2381] 1616

traffic through the yard at West Jacksonville on the Seaboard Air Line.

Also a survey of a general character of the situation at Savannah, on both the Seaboard and the Atlantic Coast Line. That is, of course, an important yard with reference to the movement of Florida perishables.

And also of the line movements over the Coast Line and Seaboard north of Jacksonville.

Emphasis may properly be laid on the extent of the examination and investigation thus made, because it undoubtedly more abundantly warrants reliance on the conclusions reached through the mathematical calculations because predicated on a thorough understanding of the actual conditions which the mathematics are intended to measure.

So I desire to impress the facts of such investigation and to relate certain general observations which may be predicated directly thereon. To that end I may state, even at

the expense of perhaps here and there a matter of restatement, that I was over the greater part of the railroads of the Atlantic Coast Line, Seaboard Air Line, and Florida East Coast as regards the territory in which the perishable originates, as well as on the main routes traversed by the traffic north of the originating territory.

For the purposes of my study, I was given free access to the data in all the offices of the Atlantic Coast Line, the Seaboard Air Line and the Florida East Coast railways, including the

[fol. 2382] 1617

data in the general and division offices, the yard offices and stations, and was afforded every aid possible by those on the ground and familiar with the handling of the traffic. On account of the existing situation in Florida, it is only fair to the operating and other officers of these lines to say that this aid was possible only through extraordinary exertion on their part, because their current duties constitute a tremendous burden on them.

The study embraced analysis of train sheets showing the train movement, wheel reports, yard reports, supplemented by explanations of operating officers familiar with the practical conditions, as well as such data regarding operating costs as are obtainable in the general offices of the company, and the results of the study are embraced in the various tables and explanatory matter which appear in the exhibits which I shall explain.

Q. From what you have said, Mr. Parker, I understand that you have devoted a very considerable amount of time to a personal study of the situation from a practical standpoint surrounding the originating and handling of this perishable traffic out of Florida—is that right?

A. That is correct, Mr. Gwathmey, and in that connection I would like to say that the only instructions given me by the committee of transportation officers having this particular phase in charge, namely, Mr. Stockard, general superintendent of

[fol. 2383] 1618

transportation of the Atlantic Coast Line, Mr. Hix, superintendent of transportation of the Seaboard Air Line, and

Mr. Owen, general superintendent of transportation of the Florida East Coast, were to find the facts.

Q. And your personal investigation has been made pretty generally throughout the state of Florida, and in the territories particularly in which this perishable traffic originates, has it not?

A. Yes sir. I think it would be fair to say that it has been a fairly intensive inquiry into that whole situation.

Q. Approximately how long have you been working on this matter?

A. I started in, as I recall it, about the 10th or 12th of September, and I have been engaged practically constantly on it ever since. Of that period I spent approximately the first four months on the lines in Florida and the lines north. By far the greater part of that time was spent in Florida.

Q. As a result of your observations, please state in outline what important conclusions you reached with reference to the handling of this perishable traffic?

A. I would summarize my conclusions about as follows:

1. The territory of origination of the Florida perishable traffic is of considerable extent, extends over a comparatively large territory, both absolutely and measured in terms of railroad mileage.

2. That the originating territory embraces a large number

[fol. 2384] 1619

of branch lines of railroad.

3. That the large volume of perishable traffic when considered with reference to the season over which it is spread, results in a comparatively small volume per day.

4. That the foregoing is especially significant when the extent of railroad lines over which such origination is scattered, throughout such season, is considered.

5. That there is a large pick-up service necessitated in the gathering of such traffic over the season, and from the numerous branch lines involved, so that the service in originating territory is substantially wholly a pick-up service and there is, properly speaking, an insignificant amount, if any, of through trains of perishable traffic from point of origin.

6. That the movement of the perishable traffic is expedited in every practicable way, necessarily entailing a much greater cost of handling than that for dead freight.

7. That the placing of empties for perishable loading and the movement of such cars when loaded is done with the exercise, and necessarily so, of a degree of care that need not be observed as to dead freight, thus again entailing a higher relative cost.

8. That the exigencies of the perishable movement necessitates the performance of certain functions not obtaining with dead freight.

9. That diversion privileges are enjoyed by shippers as re-

[fol. 2385] 1620

gards perishable traffic to a degree greatly beyond those actually availed of as to other traffic.

10. That the expense of handling the perishable traffic is greatly in excess of the expenses of handling dead freight; the more important differences between the two classes of traffic resulting in such difference in cost of handling are:

(a) The employment of a special type of car resulting in a much greater per cent of empty mileage.

(b) The heavier type of car (refrigerator cars generally) and the lighter loading of the perishable traffic results in a much lower percentage of paying load to dead weight, in the case of the perishable traffic than that for dead freight.

(c) Extra switching on account of initial icing and reicing of cars for movement under refrigeration.

I want to add this word of explanation in connection with that item, that I understand that the refrigeration charge contains an amount intended to compensate the carriers for the cost of switching cars to and from the ice plant. I understand that that amount, that is the amount included in the refrigeration charge, covers the bear cost of the movement of the car from some point in the yard to the ice plant. If in fact the amount included in the charge actually covers that, my own personal opinion is that it really does not pay for that part of the service, but what I am speaking of here is the extra cost which

[fol. 2386] 1621

arises from the fact that the whole operation of the yard is slowed up by reason of giving the first preference to the icing and re-icing of cars, so that the additional expense that I am speaking of here is that more particularly, rather than the cost, as I say, of the switch for the individual ice car for which the charge is allowed in the transportation charge.

By Mr. Marshall:

Q. Mr. Parker, do you have in mind particular yards, or yards where the icing is performed, or are your comments directed to the situation wherever icing may be performed?

A. I should say that it is true wherever icing is performed. The same situation exists generally at every point that I know anything about, and that covers a great many of them.

Q. I don't know what you mean by slowing up operations of the yards, where doubtless there is no other traffic of consequence than perishable traffic.

A. I do not call to my mind offhand any other—any yard where there is no other traffic of considerable consequence. I think that would apply quite generally.

By Mr. Gwathmey:

Q. Are you sufficiently familiar with the situation to be able to say whether or not that switching and that switching charge that we are—that were considered by the Commission in fixing the refrigeration charges applied particularly to the switching at regular icing stations?

[fol. 2387] 1622

A. I don't know that I am. My general impression of it is that it is simply the cost at regular icing stations.

Q. Isn't it a fact that there is considerable icing done sometimes which is not done at regular icing stations?

A. Yes, sir.

Q. In other words, emergency icing?

A. Yes sir, of course in any event the 35 cents is a ridiculously low figure for the thing it was intended to cover.

Exam. Hillyer: I am afraid we are going into detail before you have finished your general conclusions.

The Witness: (d) Greater care and consequent greater consumption time in placing empties for loading perishable traffic.

When a train is going down the road setting cars for loading, it is necessary for the crews in all cases to first go to the packing plant and find out where the cars must be placed. The placing of such cars at the packing plant must be done so that the car is exactly at the door of the packing plant. This necessitates the exact placing of the car.

As regards most all other traffic there is not the same degree of precision required with reference to the placing of the cars. Cars are shoved in on team tracks, or industry tracks, and are not ordinarily needed to be spotted at the door of a plant.

It frequently happens that the packing plants have more than

[fol. 2388] 1623

one door for loading and the car that is to be spotted for loading must be placed beyond a car that may be already placed at another door. This necessitates, for the purpose of spotting the car at the precise point where needed, the pulling out of the car already on the track, the placing in of the new empty, and then the replacing of the other car.

It frequently happens that in cases of this kind a car that has already been placed is partially loaded, and great care must be exercised in handling this car so partially loaded in order to avoid damage to the contents which would give rise to large claims.

(e) Twice a day placement of empty cars for loading perishable at many points, whereas no such practice is followed as to dead freight.

At many points perishable traffic is switched twice daily instead of once daily as is the case with other traffic.

At many points the packing plants are located on tracks on which are also other industries. The twice daily switching at the packing plants necessitates the pulling out of the cars for such other industries as may be on such tracks, for a packing plant located beyond such industries. The

conditions referred to occasion double switching of all such cars.

(f) Sundry differences occasioned by the nature of the traffic and to insure expedited service, such as increase in supervision required, additional employes, as yardmasters, clerks, et cetera, and special records maintained at superin-

[fol. 2389] 1624

tendents' and yard offices, and in agencies.

The keeping of special reports in order to insure preferential handling of empty cars for perishable loading and also to insure preferential handling of perishable traffic when loaded, at the division offices, and at stations, and the amount of following-up that is performed in order to insure the prompt and preferential handling of such traffic constitutes an expense quite apart from the expenses of the service accorded other traffic.

For example, the following description of handling orders for refrigerator cars on the Jacksonville district, Atlantic Coast Line, may be regarded as representative of the situation elsewhere:

Orders for refrigerator cars: The necessities of the situation as regards supplying the needs of shippers with refrigerators entails an elaborate system of ordering cars, and this means a careful following out of the actual assignment and placement of cars, and in order to insure this there is also entailed the keeping of a record of such orders and of the cars supplied, and of placement thereof. The manner of this and the extra service it entails are embraced in the following:

Shipper files orders for cars with agent—if for iced car such orders are in writing. Orders must be filed in the Sanford district, before 5:30 P. M., for placement the next 7:00 A. M., and before 9:00 A. M. for 2:00 P. M. placement;

Other than Sanford there is but one placement per day provided

[fol. 2390] 1625

for, and this requires that orders must be placed before 5:30 P. M. for next 7:00 A. M. placement.

Orders—for ice cars—are made in triplicate and filed with the agent, copies of which are sent to:

(1) District superintendent,

(2) Yardmaster,

(3) Fruit Growers Express,

covering the number of cars to be supplied all over the territory. Yard office follows out to see that the cars are placed as per orders. As soon as copy of order is furnished Fruit Growers Express, that company assigns cars on such orders and notifies district superintendent's office of such assignment. District superintendent's office makes record of such assignment of cars and follows out car by car, noting time of placement on each and every car on each and every order.

The taking of these orders and handling of them requires two additional clerks in freight office, and occasions extra work on superintendent's office. Extra work on yard office is taken care of by additional forces as referred to below.

At 5:30 each day agent has issued bills of lading for all cars loaded and ready for movement, triplicate list of such cars furnished to

(1) Superintendent,

(2) General yardmaster,

(3) Fruit Growers Express,

[fol. 2391] 1626

in order to make preparation for re-icing and the handling of cars ready for movement in ling haul. Yard forces assemble such cars from list furnished it, places such cars for re-icing, and classifies in making up train to go north. Superintendent's office follows movement of each car through these processes, completing his record thereof.

(g) Perishable traffic is given much more expeditious service than is dead freight.

When a train arrives in the yard, consisting of empty cars for perishable loading and other cars, the practice is followed of switching the cars for the perishable loading out first, leaving the switching of the other cars to be performed later. This is because of the urgent need for the perishable cars. They are always in urgent demand and must be obtained quickly. It would be less expensive from the standpoint of the movement of the traffic as a whole if

the switching of the cars for perishable traffic were performed along with the switching of other cars, or, to put it another way, if the switching of the cars for the other traffic were to go along concurrently with the switching movement which is performed when the trains first enter the yard, and this added expense is clearly attributable to the expeditious handling of the perishable traffic.

What has been said with reference to the switching of the empty cars is true to an even greater extent with reference to the switching of the cars containing perishable. Such cars are al-

[fol. 2392] 1627

ways given preferential handling in the yard, the switching of other cars being always allowed to await the complete disposition of the cars containing perishable. The result is to slow up the whole operation of the yard, thereby greatly reducing during the perishable season the number of cars handled per hour and greatly increasing the number of switch engines employed.

I do not want to leave the impression by the terms I have used, slowing up the whole operation of the yard to mean that anybody lays down on the job—it is quite the other way. I do not mean that anybody works slower, but the results accomplished, that is the number of cars per hour, is very greatly reduced, I mean the yard operation is slowed up in that sense through the manner in which the perishable traffic is switched and the attention given to it.

As to road haul the train load is cut in order to permit making the time.

Large delays to other traffic in consequence of expediting the perishable traffic, occur.

Q. Explain now your statements with reference to the large gathering area of originating territory, and the insignificant amount of through train service from points of origin.

A. An accurate answer to such question necessitates understanding as to just what is meant by "through trains."

Through freight trains are so designated with reference to

[fol. 2393] 1702

Mr. Gwathmey: I suggest, if there is no objection, that between now and tomorrow morning, Mr. Parker will ex-

amine his notes to refresh his memory upon the subject, and if he is able to testify positively he can do so. If he feels that he cannot, I will withdraw the question.

By Mr. Gwathmey:

Q. Now Mr. Parker, you have given a very detailed description of the service actually performed by the carriers in these various loading districts in connection with the placing of cars, assembling of cars, and things of that sort. What conclusions do you draw upon that subject?

A. The general conclusion I draw is that the service involved in the handling of perishable traffic is very complicated, that there is a large amount of pick-up service of branch line trains, a large amount of switching, that the trains are relatively light in view of the necessary daily service in order to move promptly whatever traffic offers, and that there is a substantial absence of solid through trains in the assembling territory, and that on the whole the service in the gathering territory is a very expensive one.

Q. At the Orlando hearing quite a number of witnesses, as I recall, that is witnesses for the complainants, seemed to think that in view of the fact that packing house plants have been established in greater numbers in recent years, and that the shippers do the loading at those plants, that about all that this service involves is that the shippers turn over to

[fol. 2394] Copy

Office of Special Counsel, Interstate Commerce Cases, 1210 Shoreham Bldg., Washington, D. C.

File No. 1590

August 3, 1931. fwg.

I. C. C. Docket No. 18364

Georgia Public Service Commission v. Atlantic Coast Line Railroad Co.

Mr. Ulysses Butler, Chief Examiner, Interstate Commerce Commission, Washington, D. C.

Dear Sir: At the further hearing of the above matter at Washington, before Examiner Hoy, Mr. George W. Lamb,

a witness for the Atlantic Coast Line was requested to submit some additional information in connection with his Exhibit No. 133. I am enclosing herewith an original letter from Mr. Lamb to Secretary McGinty, dated August 1st, which contains this information, and copies are being duly forwarded to various parties to the case.

Very truly yours, (S.) F. W. Gwathmey, Special Counsel.

Copy with copy of enclosure to: Mr. H. P. Adair, Atlantic National Bank Bldg., Jacksonville, Fla. Mr. C. E. Cotterill, Grant Bldg., Atlanta, Ga. Mr. J. V. Norman, 1506 Inter-Southern Bldg., Louisville, Ky. Mr. August Gutheim, 712 Jackson Place, Washington, D. C. Mr. E. M. Price, Georgia Public Service Commission, Atlanta, Ga. Mr. Theo. T. Turnbull, Railroad Commission of Florida, Tallahassee, Fla.

[fol. 2395] Atlantic Coast Line Railroad Company

Wilmington, N. C.,
August 1st, 1931.

342-A

I. C. C. Docket 18364

Florida Log Rate Case

Hon. George B. McGinty, Secretary, Interstate Commerce Commission, Washington, D. C.

Dear Sir: At the hearing in I. C. C. Docket 18364, held in Washington on July 21st, I filed as Exhibit No. 133, a "Statement showing the consist of log trains operating between Hines and Palatka, Fla., on the Atlantic Coast Line Railroad, month of November, 1930," which also showed the "out of pocket" expenses.

Some question was raised as to the entry opposite Account 394, Fuel for Train Locomotives, $1,138.49, and it was agreed that I would investigate this item and, if the figures were not correct, file a corrected exhibit or explain what the complainants felt was an excessive amount of fuel as compared with the amount paid train enginemen.

This statement was prepared to show the cost to the Atlantic Coast Line Railroad Company, as represented by

the out of pocket expenses, to handle log trains in solid train load lots.

I find that our General Superintendent of Motive Power, who furnished me the entries for all accounts except 392 and 401, developed from tickets issued at each coaling the following amounts issued for these log trains:

Issued at	Tons	Cost per ton	Amount
Palatka	136	$3.364	$457.50
Wilcox	155	2.573	398.82
Total	291		856.32

Coal issued at Palatka is received from the western Virginia and West Virginia mines. The results shown above include foreign freight only to Yemassee, S. C., where it is turned over to the Atlantic Coast Line. The distance from Yemassee to the Florida State Line is 162.5 miles.

Coal issued at Wilcox is obtained from the Alabama fields and is delivered to the Atlantic Coast Line at Montgomery. The distance from Montgomery to the Florida State Line is 221.5 miles.

Our General Superintendent of Motive Power developed that for the tons of coal issued at Palatka there were 22,100 ton miles and for the coal issued at Wilcox 34,333 ton miles over the Coast Line outside of the State of Florida, a total of 56,433 ton miles. Applying to these ton miles five mills per ton mile produces a cost of $282.17. This figure added to the $856.32 listed in the foregoing tabulation produces the total of $1,138.49 shown on Exhibit No. 133 against Account 394.

[fol. 2396] As a matter of fact, this cost is developed on the Third Division of the Atlantic Coast Line and it appears that the General Superintendent of Motive Power might well have charged the five mills per ton mile not only to the Florida State Line, but to the point of connection with the Third Division. On coal moving from West Virginia fields the distance from the State Line to Jacksonville, point of connection with the Third Division, is 36.90 miles; and from the Georgia State Line to High Springs, junction of the Second and Third Division, the distance is 67.95 miles.

As supporting the cost of fuel issued for the operation of these log trains I find that the Atlantic Coast Line Railroad Company, in an effort to reduce the consumption of

fuel on the First, Second and Third Divisions, has had in operation for some years a contest between Divisions. The Third Division operates entirely within the State of Florida, and I find that for the year ended December 31, 1930, the pounds of coal per thousand gross ton miles (excluding locomotives and tenders) were 163. From Exhibit No. 133, in the last column, it will be noted that the gross ton miles were 3,863,451. Multiplying this figure by 163 pounds per thousand gross ton miles produces 629,742 pounds, which divided by 2,000 represents 314.87 tons. The average cost of the 291 tons of coal issued to the log trains, excluding five mills per ton mile over the Atlantic Coast Line to the Florida State Line, is $2.94 per ton. Multiplying 314.87 tons by $2.94 produces $925.72. Based on the average consumption per thousand gross ton miles of the Third Division for the year ended December, 1930, it is considerably in excess of the $856.32 shown as the cost of coal issued to the log trains at Palatka and Wilcox.

If the actual cost of operating a train in a special service is desired the results may be different from the charges to operating expenses, because the charges to operating expenses are the system figures and the service performed by one division of the system for the benefit of another is reflected in the total operations, whereas in determining the actual cost of performing a given service all expenses attributable thereto should be included.

For this reason our General Superintendent of Motive Power believes the figures reported by him, which are embodied in Exhibit No. 133, are correct. Therefore, for the reasons above stated, I am convinced that the entry opposite Account 394 is to a slight extent an under-statement of the figures which might be used.

Yours very truly, (S.) George W. Lamb, General Auditor.

Copy.

[fol. 2397] BEFORE INTERSTATE COMMERCE COMMISSION

No. 18364

GEORGIA PUBLIC SERVICE COMMISSION

v.

ATLANTIC COAST LINE RAILROAD COMPANY

Submitted —. Decided —

On further hearing:

1. Finding in 146 I. C. C. 717 that rates on logs, except walnut, cherry, and cedar, in carloads, from points in north Florida to destinations in Georgia were unreasonable, affirmed. Present rates found not unreasonable.
2. Rates on logs (over six feet in length), except cedar, in carloads, applying on shipments between points on the Atlantic Coast Line Railroad Company in Florida not shown to be unduly prejudicial to shippers and localities in Georgia but found unjustly discriminatory against interstate commerce. Nondiscriminatory basis of rates prescribed.

E. M. Price for complainant.

Frank W. Gwathmey, Carl H. Davis, Robert C. Alston and E. W. Moise for defendant.

Cary D. Landis, Attorney General for the State of Florida, and T. T. Turnbull for Florida Railroad Commission.

H. P. Adair, C. G. Ashby, C. E. Cotterill and August G. Gutheim for Brooks-Scanlon Corporation, Wilson Cypress Company and Cummer Cypress Company; J. V. Norman for Wilson Lumber Company; T. M. True for Southern Cypress Manufacturers' Association; Thomas D. Guthrie and Russell W. Bennett for various crate manufacturers and E. C. Green for Jacksonville Traffic Bureau, interveners.

REPORT ON FURTHER HEARING PROPOSED BY E. J. HOY AND P. S. PEYSER, EXAMINERS

By complaint filed May 3, 1926, complainant alleged that the rates on logs, in carloads, from points in Florida

on defendants' lines to destinations in Georgia on defendants' lines were unjust and unreasonable and that the rates applicable on shipments between points on defendants' lines within the State of Florida were unduly preferential of intrastate shippers in Florida, unduly prejudicial to interstate shippers from Florida to Georgia and unjustly discriminatory against interstate commerce. Lawful rates for the future were sought.

[fol. 2398] After full hearing, at which the Florida Railroad Commission and various interveners were heard, division 4 in the original report herein 146 I. C. C. 717, found that the interstate rates assailed, except those on walnut, cherry and cedar logs, would be unreasonable for the future to the extent that they might exceed a scale of distance rates set forth therein. The division further found that the Florida intrastate rates assailed resulted in undue preference of Florida intrastate shippers, undue prejudice to interstate shippers from Florida to Georgia and in unjust discrimination against interstate commerce, and that said unlawfulness should be removed by the establishment within the State of Florida of the same scale of rates prescribed for interstate application from north Florida [1] to Georgia. The order entered, as subsequently amended, required the establishment of this scale of rates over defendants' lines throughout the entire State of Florida, except on logs less than six feet in length or on walnut, cherry, or cedar logs. Proceedings were instituted to set aside the order in respect to Florida intrastate rates but it was sustained in the District Court, State of Florida v. United States, 31 Fed. (2nd) 580, as an unjust discrimination against interstate commerce. Upon appeal, the Supreme Court of the United States reversed the lower court because the ultimate findings of unjust discrimination and undue prejudice and preference were not supported by appropriate intermediate findings. Florida v. United States, 282 U. S. 194. The order was accordingly set aside in so far as it applied to Florida intrastate rates, and upon petitions of complainant and defendant, the case was reopened for further hearing.

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[1] Described as "that portion of Florida lying north of and including Jacksonville, Gainesville, Burnett's Lake, and High Springs."

[fol. 2399] After the case was reopened, the Wilson Lumber Company, operating a sawmill at Perry, Fla., was permitted to intervene. At the further hearing the intervening Florida log shippers contended that the complaint did not raise the issue of unjust discrimination against interstate commerce, and that complainant had no legal interest in such issue and had submitted no evidence in support of it. Intervener's motion to dismiss was overruled. The issue of unjust discrimination was considered by the Supreme Court and is clearly still in the case; it can be determined only by consideration of all the evidence. See Section 13, paragraph (2) of the Interstate Commerce Act.

Rates Assailed and Comparisons

Rates will be stated in the equivalent of cents per 100 pounds. The present rates on logs, except walnut, cherry, and cedar from north Florida to Georgia are those prescribed in the original report herein, and are shown in Column 5 of Appendix A hereto. The present intrastate rates on logs over six feet in length and other than cedar, applicable over defendant's lines in Florida are shown in Column 1 of the same appendix. In the tariffs, the latter rates are stated in amounts per car of 50,000 pounds, excess in proportion. The history of the rates up to 170 miles, generally referred to as the Cummer scale, was related in considerable detail in the original report. Briefly summarized, the Cummer scale originated in a contract made in 1903 between the Jacksonville & Southwestern Railroad Company and the Cummer Lumber Company, which was then controlled by the same interests; defendant acquired the properties of the former company in 1904, and assumed its obligations under the contract; during the pendency of said contract defendant entered into a similar agreement with the predecessor of intervener Brooks-[fol. 2400] Scanlon Corporation in connection with the transportation of approximately one billion feet of pine from Lafayette and Perry Counties, Fla., to its plant at Eastport, near Jacksonville, Fla., in trainloads; the Florida Railroad Commission refused to permit the establishment of the agreed rates in trainloads, and required that such rates as were established should apply on carloads and be available to all shippers on the Atlantic Coast Line Railroad Company (see Appendix B); said rates became

effective on carloads over all of defendant's Florida lines October 30, 1914, and as modified by subsequent general changes (and extended from 150 to 170 miles), the rates are now in effect. From February 9, 1929, to about April 10, 1931, the scale of rates shown in Column 5 of Appendix A was applied by defendant intrastate in Florida, as the result of the order of division 4 in this proceeding. After that order was set aside, defendant reinstated the Cummer scale.

The Cummer scale applies only to 170 miles; beyond that distance the rates are substantially higher. The rate for 171 miles is 8.33 cents, which is more than twice as high as the rate of 3.7 cents for 170 miles. The former rate would necessarily be higher than any combination of intermediate rates. The rates under the Cummer scale for distances of 5, 110, and 170 miles are 5.03, 3.54, and 3.85 per cent, respectively, of the southern first-class rates for the same distances.

Columns 3 and 4 of Appendix A show the rates applying on logs except cedar, intrastate in Florida on the Seaboard Air Line Railway Company and Georgia Southern and Florida Railway Company. It is to be noted that these scales are approximately twice as high as the Cummer scale.

On the Atlantic Coast Line and Seaboard Air Line commodity rate based on class P, minimum 40,000 pounds, ap- [fol. 2401] ply in Florida on logs not over six feet in length. These are shown in Column 2 of Appendix A. This basis was established to permit the movement of short-length logs which would otherwise go to waste, but which could be used by manufacturers of crates. They usually come from farms and small timber tracts. This scale is lower than the scale applying on full-length logs over the Seaboard Air Line, and is also lower than the scale applying over defendant's lines for distances over 170 miles. It is substantially higher than the Cummer scale for distances of 170 miles and under.

Appendix A also contains typical scales applying on interstate traffic on logs between points in the Southeast and in the Mississippi Valley. The Mississippi Valley lines usually have two kinds of rates applying on logs, namely, rates for local application and net transit rates, the latter applying when a certain proportion of the finished prod-

net is manufactured and reshipped over the lines of the carrier delivering the logs. The net transit or reshipping rates are usually considerably below the local rates.

The interstate scale shown in Column 5 had its origin in the scale prescribed in Pierpont Mfg. Co. v. S. Ry. Co., 50 I. C. C. 81, and now applies interstate generally between points on the Atlantic Coast Line, Seaboard Air Line, and Southern Railway Company, and as net transit rates on the Louisville and Nashville Railroad Company. It will thus be seen that this scale applies on the most important interstate carriers in the Southeast. It will be hereinafter referred to as defendant's interstate scale.

In Docket No. 22548, Farris Hardwood Lumber Co. v. Louisville and Nashville R. R. Co., decided October 8, 1931, not yet reported, division 4 prescribed gross or local rates on logs from numerous origins in the South to destinations in Tennessee, which are considerably higher than defend- [fol. 2402] ant's interstate scale. The single-line scale prescribed in that case is shown in Column 6 of Appendix A.

The net transit scale of the Illinois Central Railroad Company and Mobile and Ohio Railroad Company is typical of such scales applying in the Mississippi Valley, although that applying on the St. Louis-San Francisco Railway Company is somewhat lower. This scale is shown in Column 7 and is considerably lower than the local scales on these lines, which are shown in Columns 8 and 9. It is to be noted that this net transit scale is comparable in level to defendant's interstate scale.

Appendix C contains a comparison of intrastate rates on logs applying over defendant's system. Its interstate scale applies intrastate in Virginia up to 72 miles and in Alabama under the authority of the state railroad commissions. The local rates in Georgia are somewhat higher and the transit rates are somewhat lower than defendant's interstate scale. The intrastate rates in North Carolina and South Carolina are somewhat lower than the interstate scale, but are higher than the Cummer scale. Defendant states that applications are pending before the respective state authorities to permit the establishment of the interstate scale uniformly throughout all of these states, and that approval of these applications has been withheld because of the low intrastate rates in Florida.

Appendix D contains a comparison of the interstate log scale and the Cummer scale with interstate rates on important low-grade commodities applying between Georgia and Florida. The appendix also shows the revenue per car derived from the transportation of these commodities. On these compared commodities practically the same level of rates applies intrastate in north Florida. A traffic test of all commodities moving over defendant's lines for the [fol. 2403] month of May, 1926, reflects the relative revenue importance of these commodities:

Commodity	Per cent of all tonnage	Per cent of all freight revenue	Value per ton
Logs	7.26	2.05	$2.80
Brick—artificial stone	3.30	2.32	
Sand, gravel	26.49	9.16	$.35 to $1.35
Lime—plaster	0.46	0.39	
Cement	2.29	2.05	7.48

Of all low-grade commodities transported, logs were third in importance as to tonnage and ranked with cement as fifth in revenue produced.

The rates on lumber from mill points on defendant's lines on south Georgia are compared with similar rates from Florida mills. These comparisons show that the outbound lumber rates from south Georgia points and Jacksonville to important destinations in trunk-line and New England territories are the same, but that other points in Florida take arbitraries ranging from 1 to 3 cents over Jacksonville. In making these comparisons, it is suggested that the sum of the inbound log rates and outbound lumber rates is disadvantageous to Georgia shippers and therefore preferential of Florida intrastate shippers.

Defendant suggests that the outbound lumber movement is more important to it from a revenue standpoint than the inbound movement of logs, and that when the large pine mills were located at Jacksonville, a substantial part of the lumber movement was by water or over the lines of other carriers, but that with their present location, defendant necessarily receives a greater outbound tonnage.

Florida Lumber Industry

The principal growth of timber in Florida is pine. Cypress is second in importance. There are also certain

[fol. 2404] kinds of hardwoods, such as ash, gum, hickory, and oak. The hardwoods are usually found scattered in the pine or cypress and do not usually amount to more than 5 or 10 per cent of the timber in any particular tract.

United States Department of Agriculture Circular No. 124 dated October 1930, estimates that in 1927 only 12,650,000 acres of virgin pine land remained in the South out of an original total area of 115,000,000 acres. Of this acreage of virgin growth, 5,450,000 acres, or 43 per cent, were in Florida. The amount of fully or partially restocked cut-over lands represented about two-thirds of the total cut-over lands, but the average in Florida was somewhat smaller.

A study prepared by the Southern Pine Association indicates the production of southern yellow pine in 1925 was practically the same as in 1904, while the production of Douglass fir increased almost 200 per cent. The production of Douglass fir is now second only to southern yellow pine. This fir is shipped by water from the Pacific Coast through the Panama Canal to eastern seaboard markets and has become a very strong competitor of southern pine.

Although the total production of southern pine has not decreased, there has been a marked change in the method of production. In 1919, 67 per cent was produced in large mills, while in 1929 only 47 per cent was produced in such mills. The following table shows the amount of production in large and small mills in Florida during the years 1919, 1924, and 1929 (in millions of board feet):

Year	Large or permanent mills	Small or portable mills
1919	1050	388
1924	960	444
1929	685	386

[fol. 2405] The large mill requires a very large supply of available timber, which it usually owns, in order to secure a steady supply of raw material. Its operations are usually continuous until its supply is exhausted. On the other hand, small mills live off of the timber in the immediate vicinity which they seldom own. The extent of their operations depends entirely upon the market prices and they can suspend operations without having to stand substantial overhead losses. Their use is more flexible in that they may be readily moved to a new timber source.

There is evidence to the effect that all of the large tracts of timber in north Florida are now owned by the large Florida mills and that there are none available for Georgia mills. However, there are numerous small tracts which could be used by small mills and the evidence suggests the conclusion that there is a tendency in Florida toward development of small mills, which development would be similar to that which has taken place in other southern states.

The following table contains a study of the lumber traffic in the United States, the southern district, and on defendant's lines for selected years:

Year	United States tons	Southern district tons	Atlantic Coast Line	
			Tons	Revenue
1920	48,617,871	17,708,828	2,665,512	$5,503,389.44
1925	49,015,498	20,311,619	3,751,516	8,092,819.86
1928	42,508,620	17,872,965	3,093,168	6,641,449.38
1929	40,565,975	17,403,907	3,109,401	6,750,434.28
1930	27,584,148	11,395,877	2,211,258	4,711,383.72

This table indicates the substantial decline of the lumber movement in 1930. It also shows that the percentage decline on defendants' lines in that year was less than for the southern district as a whole. The lumber business in Florida during 1929 was reasonably good but 1930 was a very bad year. During 1929 several mills were not operating by reason of the change of location of the mills, fire, and other causes.

[fol. 2406] Movement

During the years 1926 and 1927 the total movement of logs, posts, poles, and cordwood on the Atlantic Coast Line System amounted to 2,196,971 and 2,056,593 tons, respectively. During these same years the Florida movement amounted to 1,214,361 tons and 1,052,927 tons which represented 55.3 per cent and 51.2 per cent, respectively, of the total system movement for each year. The following table contains a brief analysis of the system and Florida log traffic for the years 1928, 1929, and 1930:

	1928	1929	1930
		SYSTEM	
Total Traffic (tons)	20,402,922	18,951,802	16,784,331
Log Traffic (tons)	1,422,874	949,840	667,612
Per cent of total	7.0	5.0	4.0
Total Revenue	$52,019,283	$53,188,639	$46,428,030
Log Revenue	997,139	794,334	615,393
Per cent of total	1.9	1.5	1.3

		FLORIDA	
Total Florida Traffic (tons)	8,622,556	8,547,924	7,660,058
Florida Log Traffic (tons)	814,777	366,420	272,150
Per cent of total	9.4	4.3	3.6
Per cent Florida Log Traffic bears to System Log Traffic	57.3	38.6	40.8

The above analysis reflects the great decline in log traffic over the system and shows that the decline in Florida traffic has been even greater. The table also shows that although the log traffic for the system in 1930 was less than half of that in 1928, the revenue produced by it in 1930 was over 60 per cent of the revenue produced in 1928. This analysis also indicates the comparatively small revenue burden borne by this traffic; for instance, in 1928 the total log traffic amounted to 7 per cent of the tons carried over the system but produced only 1.9 per cent of the revenue.

At the time this complaint was filed, the most important pine mills were located in the vicinity of Jacksonville. They [fol. 2407] were established there many years before in order that outbound lumber might be transported to the principal markets on the eastern seaboard by water. The Brooks-Scanlon Corporation had succeeded to the business of the Carpenter-O'Brien Company at Eastport, and the Putnam Lumber Company was operating the plant of the Cummer Lumber Company at Milldale, Fla. The latter company also owned a cypress mill at Ortega, Fla. All of these points are within a short radius of Jacksonville. They drew their logs from points on defendants' Perry branch about 166 miles west of Jacksonville. The logs moved in trainloads daily from the vicinity of Perry and Carbur, Fla., to Eastport and from Clara and Cross City, Fla., to Milldale.

At the time of the original hearing, there was evidence to to the effect that it was uneconomical for mills to be located so far from the timber and that even the Cummer scale was higher than they could afford to pay. The Putnam Lumber Company indicated its intention to abandon its plants at Milldale and Ortega and to develop a plant at Cross City, in the timber. It actually built a pine and cypress mill at Shamrock, Dixie County, Fla., near Cross City during 1927 and 1928, and acquired a mill at Bond's Mill, Volusia County, Fla., in the midst of its timber. In 1926 it paid to the Atlantic Coast Line $200,014.50 and in 1927, $107,324.38 on account of logs received at its Milldale and Ortega plants.

Shortly after the establishment of the higher intrastate rates in February, 1929, the Brooks-Scanlon Corporation discontinued its shipments to Eastport and began the construction of its plant at Foley, Fla., about 5.5 miles southwest of Perry. The Eastport plant was continued only long enough to complete the sawing of those logs which had already been cut. The Brooks-Scanlon Corporation paid the Atlantic Coast Line the following amounts for trans-[fol. 2408] portation of pine logs to its plant at Eastport: $334,048.47 in 1926; $330,608.29 in 1927; $353,136.00 in 1928; and $50,954.66 in 1929.

While the movement to Jacksonville represented the most important movement of pine logs over defendants' lines, the Cummer Cypress Company had a plant at Lacoochee, Fla., situated between three tracts of cypress and pine owned by that company. Lacoochee is in Pasco County somewhat north of Dade City, Fla. This company also has a hardwood mill at Otter Creek, Levy County, Fla. From January 20, 1926, to May 5, 1928, when the timber became exhausted, there was a regular train-load movement from the holdings of this company in the vicinity of Otter Creek to Lacoochee. This movement yielded defendant gross revenues of $46,506.15 in 1926, $58,011.75 in 1927, and $15,743.50 in 1928. About the time the movement from Otter Creek to Lacoochee commenced, the Wilson Cypress Company began to move cypress logs from its timber in the vicinity of Hines, Dixie County, Fla., to Palatka, Fla. This movement still continues. The Wilson Cypress Company paid the Atlantic Coast Line total freight charges as follows: $71,742.75 in 1926; $93,219.37 in 1927; $109,138.07 in 1928; $83,098.99 in 1929; $205,096.20 in 1930, and $50,386.17 the first five months in 1931. During a considerable part of 1929, this company was not operating because a fire had destroyed part of its plant. Although this company and the other interveners testified that it would be impossible to continue the movement of logs if the Cummer scale were increased, it has actually done so because its principal timber holdings are tributary to the St. Johns River and it considered it uneconomical to move its plant. Its timber holdings in western Florida are sufficient to continue the movement for one and one-half to two years more, and, if the Cummer scale is increased, it suggests several means that may be devised to [fol. 2409] defeat the increased rates, such as obtaining

trackage rights over the Live Oak, Perry & Gulf Railroad Company and Seaboard Air Line, or by arranging with some of the mills in the vicinity of the timber to saw its logs, or by building a small mill in the timber.

In April, 1929, after the establishment of the higher intrastate rates, the Cummer Cypress Company commenced the movement, consisting principally of cypress, from its holdings in Homosassa, Fla., to Lacoochee. This movement lasted until February, 1930. The Cummer Cypress Company paid the Atlantic Coast Line $75,409.30 in 1929 and $2,200.59 in 1930 on these shipments. In January, 1929, it also commenced a movement of hardwood from Homosassa to Otter Creek, which movement likewise ended in February, 1930. The reason for shipping the logs to Otter Creek rather than Lacoochee was because of the lower freight rate. On these shipments to Otter Creek, the Cummer Cypress Company paid the Atlantic Coast Line $11,151.29 in 1929 and $2,355.80 in 1930. In February, 1930, the Cummer Cypress Company completed its logging railroad of approximately 15 miles to the Seaboard Air Lines, over which railroad it has obtained trackage rights. Since that date it has received no shipments over the Atlantic Coast Line except from a few points within a radius of 18 miles of its plant.

The witnesses of the Putnam Lumber Company, Cummer Cypress Company, and Brooks-Scanlon Corporation testified that they appeared at the further hearing in order to submit to this commission such facts as they had in their possession and not because of any interest on their part in the outcome. They testified that they had made adequate arrangements to take care of the movement of their logs without the use of the Atlantic Coast Line, and that the movement over that road would not be restored even if the Cummer scale remains in effect.

[fol. 2410] What has been said as to the movement refers only to trainload movements. There is also a considerable movement of logs in less than trainloads. Hardwood, which is cut as an incident to the logging of cypress or pine timber, usually moves in less than trainloads. The Wilson Lumber Company, which has a hardwood plant at Perry uses a considerable quantity of hardwood cut as an incident to pine and cypress operations in that vicinity.

Defendant submitted a traffic test of all carload shipments of logs more than six feet in length which moved over its lines in Florida from February 9, 1929, to January 31, 1931, during which period the rates prescribed in the original report herein were in effect. This test shows a movement of 18,602 cars producing a total revenue of $571,508.94. If the Cummer scale had applied, it would have produced only $281,225.75. In other words, the applicable rates produced more than twice as much gross revenue as would have been produced by the Cummer scale. The following summary shows all movements consisting of more than 500 cars during this approximately two-year period:

Origins		Destinations	Carloads
Carbur	to	Cross City	593
Hines	to	Cross City	549
Hines	to	Palatka	7,352
Hines	to	Perry	721
Homosassa	to	Lacoochee	2,995
Homosassa	to	Otter Creek	519
Lamont	to	Perry	648
Smaller movements			5,222
Total			18,602

At a later hearing defendant supplemented this evidence by a statement showing the movement of logs for the five months from February 1, 1931, to June 30, 1931. This statement showed a movement of 1,831 cars from Hines to Palatka and no movement of as much as 100 cars between any other two points. In addition to Palatka, the principal destinations were Perry, Loughman, Jacksonville, Cross City, and Lacoochee, Fla.

[fol. 2411] Interveners made a recheck of the movements included in this traffic study in order to determine the difference in the movement during the first and second years of the high rates and the kinds of logs that moved. Excluding the trainload movement from Hines to Palatka, which consisted of 2,140 cars in 1929 and 5,142 cars in 1930, this check indicates that 7,965 cars moved between February 9, 1929, and January 31, 1930, and that 3,204 cars moved between February 1, 1930, and January 31, 1931. During the first year 3,004 cars moved to Lacoochee, while only 225 cars moved during the second year. This great decrease was because the trainload movement from Homosassa to Lacoochee which represented about 93 per cent of the two years movement ended in February 1930, as heretofore stated. During the two years there were 16 points

that received shipments of logs. During the second year but not during the first year, there were shipments to three of these points, Groveland, Loughman, and Slater, and during the first year but not during the second year, there were shipments to five of them, Eastport, Gainesville, Live Oak, York, and Baldwin. The movement to York was discontinued because the pine mill at that point ceased operations.

This analysis of the traffic test disclosed that the shipments, excluding the movement of cypress from Hines to Palatka, were as follows:

Year	Pine	Cypress	Hardwood
First year	1,282	2,890	3,793
Second year	296	1,566	1,342

Cross City received 225 cars of pine and 709 cars of cypress during the second year of the high rate and 2,107 cars of hardwood moved to Perry during the first year and 1,078 cars during the second year. The movement of [fol. 2412] hardwood to Jacksonville decreased from 958 cars during the first year to 211 cars during the second year.

There is evidence that while the higher rates were in effect certain inferior logs were left in the woods because it was not profitable to handle them.

There are cypress mills at Albany and Savannah, Georgia, but they make few shipments to eastern markets. The record indicates that there has been no movement of logs of any kind from Florida to Georgia over defendant's lines since the filing of this complaint.

[fol. 2413] Transportation Service on Florida Log Traffic

As heretofore stated the movement from Hines to Palatka is now the only movement in trainloads. This movement is in train loads of 40 to 45 cars every other day. The actual time consumed in the trip is about 8 hours. However, it requires a day and night to move in the loaded cars and to unload them. The empties move back at night. Practically the only service performed in this movement is the road haul, except that the train passes through Palatka, at which terminal the cars are sometimes weighed.

In connection with this train load movement, special cars are assigned to the Wilson Cypress Company upon which

they place special logging equipment. That company pays for repairs on equipment when the damage is incurred while the cars are on its logging railroads. It also pays 50 per cent of inspection costs.

There are no terminal services involved in the trainload movement from Hines to Palatka but such services are necessary in connection with other shipments of logs. The movement from Hines to Palatka is less expensive than the ordinary carload movement or the movement of a few carloads. Usually logs are handled in local trains. In 1929, defendant handled on the average 31.69 freight cars per train-mile. Approximately 98 per cent of log cars are returned empty.

General Operating and Revenue Statistics

General operating conditions are reflected in large measure by traffic density, which indicates the quantity of traffic that must bear the transportation burden. The following table shows the traffic density on defendant's system as a whole, on its lines in Florida, and on its system excluding Florida:

[fil. 2414] Revenue Ton-Miles per Mile of Road

Year	System	Florida	System excluding Florida
1921	514,955	341,152	618,635
1922	624,700	409,026	754,341
1923	764,228	512,505	915,990
1924	774,029	570,583	897,150
1925	907,958	740,633	1,009,225
1926	963,569	869,411	1,021,610
1927	747,717	570,932	861,713
1928	647,542	442,245	781,682
1929	637,039	400,002	794,395
1930	556,771	369,979	648,395

This table is based upon the number of miles of railroad; if miles of main-line and second main-line track were used as a base, the figures shown would in each case be less. The Florida mileage increased from 37.4 per cent of the system mileage in 1921 to 40.0 per cent in 1930. It appears that the increase in traffic density on the system during 1926 and 1927 followed closely the increase in traffic density

in Florida during those years. A similar study of the traffic density on the Seaboard Air Line, which in 1930 had 40.59 per cent of its mileage in Florida, shows a similar increase in the traffic density in Florida during 1925 and 1926, but the decline in traffic density for the system excluding Florida in the years subsequent to 1926, was not as great on the Seaboard Air Line as on defendant's lines.

In 1927 there were 894.54 miles of railroad in northern Florida[1] that were operated for freight traffic, and 4183.01 in southern Florida. The traffic density of the lines operating in northern Florida was 615,318 revenue ton-miles per mile of railroad as compared with 557,286 revenue ton-miles in southern Florida. The poorer operating conditions in southern Florida have given rise to the general practice of permitting arbitraries for the movement within that territory. See Southern Class Rate Investigation, 100 I. C. C. 513, 128 I. C. C. 567, 603.

[fol. 2415] A witness for the State of Florida submitted an analysis of the Florida traffic by general commodity groups which tends to show that defendant's traffic in 1930 was 140.41 per cent of that in 1921. This increase was largely in the products of mines. There was also a substantial reduction in the tonnage of products of forests. This witness also presented an analysis of the defendant's tonnage for the years 1926 to 1930, inclusive, separated as to interstate and intrastate traffic. This latter analysis indicates that the decline in the interstate traffic of the system as a whole followed closely the decline in defendant's Florida interstate traffic. This evidence was offered in support of his contention that Florida traffic is a very important factor in defendant's interstate business.

Studies of the operating accounts of defendant for the past 10 years indicate that 1921 was a poor year, 1926 was the best year, and that 1930 was a poor year. The following table indicates the extent of the decline since 1926:

	1926	1929	1930
Investment in road and equipment	$270,564,508	$282,918,571	$285,343,512
Total freight operating revenues	68,001,687	53,188,639	46,428,030
Operating ratio (per cent)	72.82	73.83	78.84
Rate of return on investment in road and equipment (per cent)	6.50	4.55	2.54

[1] On and north of the line of the Seaboard Air Line extending from Jacksonville, etc.

The combined income of the Atlantic Coast Line, Seaboard Air Line[1] and Florida East Coast Railway Company,[1] three of the most important lines operating in Florida, would produce a rate of return of 2.2 per cent in 1930 on the combined property investment, exclusive of subsidiary companies.

[fol. 2416] Defendant submitted a study showing that the net railway operating income from the Florida operations of the Atlantic Coast Line produced a return on the investment in road and equipment of 5.83 per cent in 1926, 2.68 per cent in 1929, and 1.27 per cent in 1930. This study has been criticized because revenue was assigned to Florida operations on the basis of mileage. Inasmuch as many rates are determined by the addition of an arbitrary for the haul in southern Florida, it is considered that the method employed does not assign sufficient revenues to Florida operations. There probably is some merit to this criticism. However, it is not believed that this is sufficient to destroy the effect of the study. The conclusion that the return from Florida operations is very low is further supported by an analysis showing that the gross revenue from Florida intrastate traffic in 1930 had decreased 52.88 per cent from that in 1926, as compared with a decrease of 26.38 per cent on intrastate traffic over the system excluding Florida. The criticism referred to above would not be applicable to the method used in computing the revenue from Florida intrastate traffic. The decrease of Florida interstate traffic during the same years was 37.13 per cent as compared with 25.57 per cent for the entire system excluding Florida. The percentage decline of Florida tonnage was even greater than the revenue decline.

Defendant's Cost Study

Defendant, while conceding that it is impossible to determine with absolute accuracy the cost of handling any one commodity, submitted certain studies intended to show that the revenue produced by the Cummer scale is insufficient to pay the cost of transportation. Its third division includes all of its mileage south of Jacksonville; it also has 126.34 miles of track north and west of Jacksonville which

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[1] These railroads are now operating under receiverships.

are included in other divisions. Defendant made a study [fol. 2417] of the out-of-pocket cost of operation of the third division for the year ended June 30, 1929. The accounts included in this study covered purely road-train service. A check and analysis was made of every payroll and voucher affecting the third division and an assignment of expenses to that division was made accordingly. This study showed that the out-of-pocket expenses of the third division amounted to 88.288 cents per 1,000 gross ton-miles as compared with 53.263 cents for the first and second divisions.

The total freight operating expense on the entire system in 1929 amounted to $36,308,813 and the total out-of-pocket cost, $6,920,684. The various accounts comprising freight operating expense were analyzed and certain of them eliminated because they were not considered as materially affecting the cost of handling logs; the total of these accounts was $9,629,744. By subtracting the latter amount from the total freight operating expense, the balance was $26,679,069, which was denominated total haulage expense. The relationship of the system out-of-pocket expense to the total freight expense and total freight haulage expense was determined as 23.549 per cent and 35.027 per cent, respectively, and these figures were used as the basis of expansion to determine the total freight expense and the total freight haulage expense for the third division.

The results of these calculations were used in determining the cost for particular hauls of logs. The actual carload weights and tare weights were used and it was assumed that there was 100 per cent empty haul. The gross ton-miles[1] thus determined for the particular haul were multiplied by the cost per gross ton-mile for the third division and the product was considered as the operating expense for the [fol. 2418] movement. Taxes, other than income, were assigned on the basis of the operating expense thus determined as compared with all operating expenses in the State of Florida. Return on investment at 5.75 per cent was assigned on the basis of total operating expense for the system.

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[1] Some studies were based on loaded-and-empty car-miles. The results of those studies were not substantially different from those based on gross ton-miles.

The result of these calculations as applied to specific movements may be summarized as follows:

Movement	Miles	Revenue on Cummer scale	Purely haulage expense	Haulage expense plus taxes and return	All freight expense	All freight expense plus taxes and return
Average from Feb. 9, 1929 to Jan. 31, 1931	81.36	$15.12	$12.59	$18.75	$18.72	$27.77
Hines to Palatka	119	19.96	19.24	28.54	28.62	41.47
Homosassa to Lacoochee	68	12.44	10.05	14.96	14.96	22.19

Defendant's general auditor testified he considered the true operating cost to be somewhat more than the column called purely haulage expense and something less than that called all freight expense. Based upon these calculations, he testified that he did not consider that the Cummer scale pays for the cost of transportation of the logs.

This cost study is criticised in several respects. Perhaps the most important and outstanding criticism is that the entire study was based upon the average out-of-pocket expense of the third division and not upon the expense for the particular traffic. System averages are deemed unreliable as a measure of the cost of transportation of specific commodities. Very nearly 25 per cent of the traffic moving in this division consists of fruits and vegetables which require special and costly service. The cost of such service enters [fol. 2419] into the average cost of the third division and would apparently tend to make it higher than the actual cost of this log traffic. Reference is made to Nor. Pac. Ry. v. North Dakota, 236 U. S. 585, and Nor. Pacific v. Dept. Public Works, 268 U. S. 39, as supporting the contention that such averages are of no value in determining the cost of transportation of a particular commodity. This contention appears to be well taken. However, at the request of interveners, defendants submitted a detailed statement showing the actual out-of-pocket expense for the movement of all logs from Hines to Palatka during the month of November, 1930. Interveners agreed to accept these figures as typical for this movement. This study shows an out-of-pocket expense of $2,398.55 in connection with the movement of 490 loaded cars of logs. The log movement amounted to 3,734,936 gross ton-miles and the movement other than logs amounted to 128,515 gross ton-miles; the

latter movement represents only 3.3 per cent of the traffic and for practical purposes can be ignored. The out-of-pocket expense for this movement was 62.0834 cents per 1000 gross ton-miles. It is to be noted that this cost is substantially below that for the average of the third division and apparently this particular criticism of the cost study would be satisfied if the above figure is substituted for the division average.

The second criticism of the cost study is that an error was made in first deducting the total out-of-pocket expense from the total freight expense or total freight haulage expense for the purpose of determining the relationship of the total out-of-pocket expense to those items. Upon cross-examination defendant's general auditor admitted this was erroneous. The correct percentages are 19.069 and 25.9405, respectively.

A third criticism of this cost study is that the use of out-of-pocket expenses as a base for assigning maintenance and [fol. 2420] other expenses to this traffic results in an excessive amount for such latter expenses. Probably there was some merit in this criticism because of the use of the third division out-of-pocket expense. If this figure was too high, then it would naturally follow that the assignment of maintenance expense would be excessive. However, the out-of-pocket expense for the log traffic from Hines to Palatka is considerably less than the out-of-pocket expense attributable to the third division, and an assignment of maintenance based on the Hines-to-Palatka movement would be much less than if based on the average figure for the third division, which must be deemed to be very conservative and hardly allowing to defendant the full measure of such cost.

Another criticism of this cost study is that it is based on gross ton-miles and there are numerous expenses that are not properly assignable upon that basis. Such a criticism might be advanced against any general basis that might be used. From the facts of record it would appear that the use of gross ton-miles is as fair a basis as could be used for this traffic.

Further criticisms are made of the method of assigning taxes and the addition of return on investment in the form of interest. In 1929 Florida taxes amounted to $2,115,260.76 (15.4 per cent of all Florida expenses) and corporation income tax for the system amounted to $570,075.77. It

is unnecessary to make a specific assignment of these taxes to this particular traffic, and it will be sufficient if it is borne in mind that this traffic, as well as other traffic, should pay its fair share toward taxes and yield some return upon the investment.

The average loading of the log cars moving from Hines to Palatka during November, 1930, was 32 tons. Based upon this loading, the gross ton-mile cost of .0620834 cents, and the proper expansion percentages, the movement from [Fol. 2421] Hines to Palatka results in a haulage cost of $18.51 and an all-freight expense of $25.18. The revenue per car on this loading is $20.48. In comparing the revenue with the above computations of cost, it must be remembered that they make no allowance for taxes or return on investment and that they are based upon a trainload movement which is admitted to be less costly than a single carload movement. With due allowance for all the criticisms that have been made of this cost study, it appears reasonably clear that the Cummer scale does not yield sufficient revenue to pay the fair proportionate share of the cost of transportation of logs, even in trainloads.

Conclusions

Before proceeding to discuss the merits of the issues in this case, it is necessary to dispose of the contention of the Florida Railroad Commission that the Interstate Commerce Commission can not or ought not to take jurisdiction of this case until after the former has had an opportunity to pass upon the reasonableness of the Florida intrastate rates assailed. The Supreme Court in its opinion definitely disposed of this contention (282 U. S. 209, 210) and stated that such a construction of the law "would be to impose a limitation not required by the terms of the statute and repugnant to the grant of authority."

In disapproving the order issued by division 4, the Supreme Court stated clearly that its action was based upon the absence of appropriate findings and that it was not passing upon the sufficiency of the evidence before the commission. The concluding paragraphs of its opinion are as follows:

The Commission made no findings as to the revenue which had been derived by the carrier from the traffic in question, or which could reasonably be expected under the

increased rates, or that the alteration of the intrastate rates would produce, or was likely to produce, additional income necessary to prevent an undue burden upon the carrier's interstate revenues and to maintain an adequate transportation service.

[fol. 2422] The question is not merely one of the absence of elaboration or of a suitably complete statement of the grounds of the Commission's determination, to the importance of which this Court has recently adverted (The Beaumont, Sour Lake & Western Railway Company v. United States, decided November 24, 1930, 282 U. S. 74), but of the lack of the basic or essential findings required to support the Commission's order. In the absence of such findings, we are not called upon to examine the evidence in order to resolve opposing contentions as to what it shows or to spell out and state such conclusions of fact as it may permit. The Commission is the fact-finding body and the Court examines the evidence not to make findings for the Commission but to ascertain whether its findings are properly supported. If the facts as to intrastate transportation of logs in Florida are such as to justify an order as to intrastate rates in order to end an unjust discrimination as against interstate commerce either as between persons and localities, or because of an undue burden upon the revenues of the carrier, the Interstate Commerce Commission is still at liberty, acting in accordance with the authority conferred by the statute, to make such determinations as the situation may require.

The Supreme Court in this statement did not lay down a new rule of law but only held that the commission had failed to pass upon the issues which were presented and that it was necessary that the ultimate finding of unjust discrimination against interstate commerce be supported by appropriate intermediate findings. However, interveners contend that unless the commission upon this record can make each of the findings suggested in the first paragraph quoted above, it can not make an ultimate finding of unjust discrimination. A study of the entire opinion, and particularly of the two paragraphs quoted above, shows that the Supreme Court's statement as to the absence of certain findings in the report was made as a suggestion of what might have been appropriate findings to support the conclusion. These suggested findings were merely illustra-

tive; there is nothing in the opinion that would warrant the conclusion that such findings, and no other, were essential preliminary findings of fact. Moreover, such an interpretation of this opinion would be contrary to the subsequent decisions of the Supreme Court in Georgia Comm. v. United States, 283 U. S. 765 and Alabama v. United States, [fol. 2423] 283 U. S. 776, in which orders of the commission increasing intrastate rates were upheld although not supported by intermediate findings of the character suggested. See also La. Pub. Service Comm. v. Texas & New Orleans R. R. Co. et al., decided November 23, 1931.

The evidence does not warrant the conclusion that the Florida intrastate rates have caused undue prejudice or disadvantage to Georgia shippers or localities engaged in interstate commerce. The record fails to show any movement of logs from Florida to Georgia during the approximately two year period the interstate and Florida intrastate rates were on the same level, or the likelihood of such a movement, except possibly under a scale as low as the Cummer scale.

There remains for consideration the further question whether the Florida intrastate rates result in unjust discrimination against interstate commerce. The Supreme Court reaffirmed its prior statements that in considering the issue of unjust discrimination against interstate commerce, "the question is that of the relation of rates to income". Undoubtedly the present record shows that defendant's gross revenues from this Florida log traffic after the increase in rates made pursuant to the order of division 4 were not as great as prior to such increase. The revenue that it received from the Cummer Lumber Company alone during the two years prior to the increase in rates was greater than it received from all Florida log traffic during the two years of the increase. The large pine mills at Jacksonville moved to the timber and the testimony is clear that they will not return whether or not the rates are again increased. This traffic is lost forever. However, the testimony of the President of the Putnam Lumber Company also shows that in his opinion it was economically unsound to continue the mills at Jacksonville even under the Cummer [fol. 2424] scale and that company had made plans to move its mills before this proceeding was brought. The loss of this traffic can be ascribed more readily to fundamental

economic changes than to the increase in freight rates, although the increase was probably the last straw that resulted in the moving of the plant of the Cummer Lumber Company from Eastport to Foley. Another reason why it is impracticable to compare the revenue prior to the increase in rates with the revenue thereafter is because of the decline of traffic due to present economic conditions. The tremendous falling off in revenue on the Atlantic Coast Line in 1930 has been already referred to.

While gross revenues are an important consideration, the matter of real importance is the effect of such change in gross revenues upon net operating income. In the language of the Supreme Court in Wisconsin R. R. Comm. v. C., B. & Q. R. R. Co., 257 U. S. 563, 586, did this traffic pay "a fair proportionate share" of maintaining the Atlantic Coast Line, or did it cast an undue burden upon the interstate traffic of this carrier? The record shows the low earnings of this interstate carrier, the low earnings on log traffic as compared with other commodities, and the fact that the earnings from Florida intrastate log traffic are much below those from interstate log traffic. The cost study made in connection with the trainload movement from Hines to Palatka shows that under the most favorable conditions the traffic did not pay its fair proportionate share of operation and maintenance, even without including taxes and return on investment. The conclusion is inescapable that if, in order to hold this traffic, it is necessary for defendant to keep in effect the Cummer scale, then defendant is better off without the traffic. But the record does not indicate that the Cummer scale is necessary to hold the trainload move-[fol. 2425] ment from Hines to Palatka as is indicated by the volume of that movement during the period of higher rates. The record is also clear that there is a considerable amount of other log traffic in Florida which will move under a higher basis of rates and the revenue derived therefrom will necessarily contribute more to the operating income of this interstate carrier than the much greater gross revenue derived from the application of the low Cummer scale upon a larger tonnage.

Consideration of all the facts of record leads to the conclusion that the rate on traffic from Hines to Palatka, in order that this traffic may pay its fair proportionate share of the transportation burden, should not be less than $27.50

per car. The present minimum on this traffic is 50,000 pounds and no sufficient reason appears for changing it. The record also warrants the conclusion that the cost of transporting other Florida intrastate log traffic over defendant's lines is greater than on such traffic from Hines to Palatka. The rates on such other traffic should be somewhat higher than the level of rates from Hines to Palatka.

The commission should find:

(1) That the rates assailed on logs, in carloads, from points in north Florida to destinations in Georgia were unreasonable to the extent they exceeded those prescribed in the report in 146 I. C. C. 717, and that the rates now in effect are not unreasonable.

(2) That the rates assailed on logs, in carloads, between points on the Atlantic Coast Line in Florida have not been shown to be unduly prejudicial to Georgia shippers and localities engaged in interstate commerce in the State of Georgia.

(3) That the rates on logs (over 6 feet in length), except cedar, in carloads, applying on shipments between points [fol. 2426] on the Atlantic Coast Line in Florida are, and for the future will be, unjustly discriminatory against interstate commerce, and that such unjust discrimination can be and should be removed by the establishment of a rate from Hines to Palatka of not less than 5.5 cents per 100 pounds, minimum 50,000 pounds, and by the establishment of rates between all points on the Atlantic Coast Line in Florida not less than the rates shown for such distances in Appendix B hereto, which rates would be reasonable.

An appropriate order should be entered.

(Here follows Appendix A, side folio 2427)

[fol. 2427]

APPENDIX A

Docket No. 18364

Florida Intrastate Log Scales Compared with Various Interstate Scales in the South (reduced to cents per 100 pounds)

	Florida Intrastate Scales				Interstate Scales in the Southeast		Interstate Scales in the Mississippi Valley		
Distance	Column 1 Atlantic Coast Line (other than cedar)	Column 2 A. C. L. & S. A. L. (not over six feet in length)	Column 3 Seaboard Air Line (other than cedar and over six feet long)	Column 4 Georgia Southern & Florida (other than cedar)	Column 5 On A. C. L., S. A. L., Southern and as net transit rates on L. & N.	Column 6 Single-line scale prescribed in Docket No. 22548 to destinations in Tenn.	Column 7 Net transit scale on I. C. and M. & O. (except cedar, cherry and certain foreign woods)	Column 8 Local scale on Illinois Central (except cedar, walnut and cherry)	Column 9 Local scale on Mobile & Ohio (except cedar, walnut, cherry and mahogany)
5 miles and under	1.71	2.14	2.81	1.95	2.5	3.5	2	3.5	4.5
10 miles and over 5	1.71	2.14	2.81	2.40	2.5	3.5	2	3.5	4.5
15 miles and over 10	1.71	2.37	2.81	3.16	3	4	2	4.5	6
20 miles and over 15	1.71	2.37	2.81	3.16	3	4	2.5	5	6
25 miles and over 20	1.71	2.75	3.37	3.66	3.5	4.5	2.5	6	7
30 miles and over 25	1.71	2.75	3.37	3.66	3.5	4.5	2.5	6	7
35 miles and over 30	1.71	2.88	3.94	3.83	4	5	3.5	6.5	7
40 miles and over 35	1.71	2.88	3.94	3.83	4	5	3.5	7	8.5
45 miles and over 40	2.10	3.25	3.94	4.33	4.5	5.5	4	8	8.5
50 miles and over 45	2.10	3.25	3.94	4.33	4.5	5.5	4.5	8.5	8.5
55 miles and over 50	2.10	3.50	4.50	4.60	4.5	6	4.5	8.5	8.5
60 miles and over 55	2.10	3.50	4.50	4.60	5	6	5	8.5	8.5
65 miles and over 60	2.30	3.75	4.50	5.00	5	6.5	5	9	8.5
70 miles and over 65	2.30	3.75	4.50	5.00	5	6.5	5	9	8.5
75 miles and over 70	2.30	4.00	5.06	5.33	5.5	7	6	10.5	8.5
80 miles and over 75	2.30	4.00	5.06	5.33	5.5	7	6	10.5	8.5
85 miles and over 80	2.30	4.25	5.63	5.66	5.5	7	6	10.5	8.5
90 miles and over 85	2.30	4.25	5.63	5.66	6	7.5	6.5	10.5	10.5
95 miles and over 90	2.60	4.50	6.19	6.00	6	7.5	6.5	11	10.5
100 miles and over 95	2.60	4.50	6.19	6.00	6	7.5	6.5	11	10.5
105 miles and over 100	2.80	4.62	6.19	6.16	6.5	8	6.5	11	10.5
110 miles and over 105	2.80	4.62	6.19	6.16	6.5	8	6.5	11	10.5
115 miles and over 110	3.20	5.00	6.19	6.66	6.5	8	6.5	11	10.5
120 miles and over 115	3.20	5.00	6.19	6.66	6.5	8	6.5	11	10.5
125 miles and over 120	3.20	5.13	6.75	....	7	8.5	7	11.5	10.5
130 miles and over 125	3.20	5.13	6.75	....	7	8.5	7	11.5	10.5
135 miles and over 130	3.40	5.13	6.75	....	7	8.5	7	11.5	10.5
140 miles and over 135	3.40	5.13	6.75	....	7	8.5	7	11.5	10.5
145 miles and over 140	3.40	5.50	7.31	....	7.5	9	7	11.5	11.5
150 miles and over 145	3.40	5.50	7.31	....	7.5	9	7	11.5	11.5
155 miles and over 150	3.40	5.75	....	....	7.5	9	7	11.5	11.5
160 miles and over 155	3.40	5.75	....	....	7.5	9	7	11.5	11.5
165 miles and over 160	3.70	6.25	....	....	8	9.5	8	12.5	11.5
170 miles and over 165	3.70	6.25	....	....	8	9.5	8	12.5	11.5
180 miles and over 170	8.33	6.25	....	....	....	9.5	....	....	....
200 miles and over 180	8.33	6.25	....	....	....	10	....	....	....
220 miles and over 200	8.67	6.50	....	....	....	10.5	....	....	....
240 miles and over 220	9.00	6.75	....	....	....	11	....	....	....
260 miles and over 240	9.17	6.87	....	....	....	11.5	....	....	....
280 miles and over 260	9.50	7.12	....	....	....	12	....	....	....
290 miles and over 280	9.67	7.25	....	....	....	12.5	....	....	....
300 miles and over 290	9.83	7.37	....	....	....	12.5	....	....	....

NOTE: Over 170 miles based on Class P rates, minimum 30,000 pounds.

NOTE: On A. C. L. scale does not apply on cedar, cherry, mahogany, or walnut logs.

NOTE: On I. C. does not apply on pine or walnut.

[fol. 2428] APPENDIX B

Docket No. 18364

Letters from the Florida Railroad Commission Having Reference to the Establishment of the Cummer Scale

File #3685

Tallahassee, Oct. 9, 1914.

Railroad Commission State of Florida

Subject: Logs. Rates to Milldale, Fla.

Mr. Jas. Menzies, F. T. M., Atlantic Coast Line R. R., Wilmington, N. C.

DEAR SIR: This office is in receipt of your Freight Tariff No. 3339, effective October 3, 1914, carrying rates on logs, C. L. between stations on the Atlantic Coast Line R. R. up to a distance of 150 miles, which tariff cancels your No. 3282; which carried rates on logs in trainloads of 28 cars.

I am directed by the Commissioners to call your attention to the paragraph in this tariff which reads:

"When two or more cars are shipped from one station in one day by one shipper for delivery to one consignee at one destination these rates will be charged for an average carload weight of 50,000 pounds per car; excess of the average weight of 50,000 pounds per car will be charged for pro rata."

The Commissioners wish to say that they will not approve this tariff with the above paragraph incorporated therein, and will expect that you immediately re-publish the tariff with this paragraph eliminated.

When this is done, Freight Tariff No. 3339 will comply with the ideas of the Commissioners, in that the rates are stated per carload, and that they apply between all stations up to the given distance of 150 miles. The Commissioners wish it distinctly understood that this approval extends only to the method of stating the rates in this tariff and not to the rates themselves, and that in their opinion they are too low.

The rates carried in this tariff are such as might be deemed confiscatory, and there is little doubt in the minds of the Commissioners if they were to order such a scale of rates that your company would contend that they amounted to confiscation and the taking of your property without due process of law.

[fol. 2429] To make such a scale of rates for the movement of logs in this State reduces the power of the Atlantic Coast Line R. R. Company to make other just and reasonable rates to be charged on all classes of freights that the public may be interested in. It also reduces the power of this Commission upon complaint and hearing hereafter to prescribe what might be just and reasonable rates to be charged for other freights when the entire revenues of the Atlantic Coast Line Railroad Company are to be taken into consideration. They amount practically to a discrimination against other classes of freight and all other people engaged in different lines of business.

You will recall that at the conference in Tallahassee on the 14th of July when the matter of withdrawing your log rates to Milldale, Fla., was under discussion the Commissioners advised you that they thought you should supplant the Milldale rates with your present rates on logs as they are being applied to other points in this State, which advice was based on the conviction that your log rates to Milldale were entirely too low.

The Commissioners regret that you have seen fit to publish these extremely low rates. There is no question but that the time will come when these barely remunerative rates will be used as the basis for opposition to the reduction of other rates, where perhaps a reduction might not only be justifiable but necessary, and therefore the Commissioners wish to impress upon you the fact that the low rates carried in your Freight Tariff #3339 were not only not ordered into effect or suggested by them, but were published by you in direct opposition to their advice and suggestions.

Yours very truly, (S.) J. H. Tench, Rate Expert.

[fol. 2430] Railroad Commission, State of Florida

Tallahassee, Fla., August 18, 1915.

Mr. E. C. McLeod, Kendrick, Fla.

DEAR SIR: Replying to your letter of August 17th, with reference to the present rate on logs, carload, applicable

between stations on the Atlantic Coast Line R. R., for a distance of 150 miles and under.

Beg to advise that the Commissioners thoroughly agree with you that this rate is too low. It was not made by the Commission, nor was it put into effect with our approval. On the contrary, it was made effective contrary to the advice and wishes of the Commission. However, in order that you may become familiar with the situation, it will be necessary for me to go into the history of this rate at some length.

In April 1914, it came to the attention of the Commission that the Atlantic Coast Line was operating a special rate on logs in trainload lots from stations on the Newberry district to Milldale, Fla., that were not only much lower than the Commission Class P rates, which were applicable on logs, but they were much lower than any other rates that the Atlantic Coast Line had in effect on logs between points in this state.

To be perfectly frank, in the opinion of the Commissioners, this was a preferential rate, made in the interest of the Cummer Lumber Company, because the timber holdings of the Cummer Lumber Co., largely lay on the Newberry District of the Atlantic Coast Line, and because of the further fact that there was no mill at Milldale except that of the Cummer Lumber Company.

The Commissioners advised the Atlantic Coast Line R. R. Co., that they would have to cancel this tariff or make it applicable between all stations on its line in Florida, and that in any event they would have to cancel the application of the rate to logs in trainload lots, as the Commissioners would not recognize anything above the carload as a rate making unit.

Much to the surprise of the Commissioners, the Atlantic Coast Line corrected the tariff so as to make it applicable between all stations, and open to every one who had as much as one car of logs to ship. As soon as this was done, we advised the Atlantic Coast Line that we did not approve of these rates, and we also asked Counsel for an opinion as to whether we had authority under the law to order the cancellation of a rate on the ground that in our opinion it was too low. We could get no encouragement from

Counsel that the Commissioners possessed such authority under the law.

[fol. 2431] As further information I enclose herewith a copy of a communication that was addressed to Mr. Jas. Menzies, Freight Traffic Manager of the Atlantic Coast Line R. R., just after their decision to publish these rates as open rates on a mileage basis.

Should the railroad at any time made application to the Commissioners to be allowed to cancel this scale of rates, we would unquestionably allow them to be cancelled, but as the matter now stands the move to cancel must be made by the carrier, as the Commission is without authority to order cancellation of a rate because it is too low.

So long as the present conditions prevail it would be to your advantage to locate your mill in Ocala, for the reasons set forth in your letter. The Commissioners regret that this condition exists, and I feel sure that after you read the letter to Mr. Menzies, which is attached hereto, you will be convinced that these rates are in effect, not because of any action of the Commissioners, but in spite of their expressed objection.

The present Class P rates in this state, which apply on lumber logs and wood, were put into effect by the Commissioners after an extended investigation, not only of the lumber industry in this state and adjoining territory, but also of the financial condition of the carriers, and we are convinced that these rates are just and reasonable as applicable to this traffic. If you will compare the rates on lumber in this state with the rates on lumber in Georgia, Alabama, South Carolina, North Carolina, Virginia and Tennessee, you will find that our rates are lower than in any of these states, in which states the conditions are practically the same, except in that in each state mentioned the density of population is greater than it is in Florida.

Yours very truly, (Signed) R. Hudson Burr, Chairman.

[fol. 2432] APPENDIX C

Docket No. 18364

Comparison of Cummer Scale with Intrastate Rates on Logs Between Points on the Atlantic Coast Line Railroad in Virginia, North Carolina, South Carolina, Georgia and Alabama. (Reduced to Cents Per 100 Pounds)

Miles	Cummer scale (except cedar)	Virginia (except cedar, cherry, mahogany and walnut)	North Carolina	South Carolina	Georgia		Alabama
					Transit	Local	
5	1.71	2.5	1.8	2	1.83	3.05	2.5
7	1.71	2.5	1.8	2	1.83	3.05	2.5
10	1.71	2.5	1.8	2	2.11	3.51	2.5
12	1.71	3	1.8	2.5	2.11	3.51	3
15	1.71	3	2.13	2.5	2.11	4.17	3
17	1.71	3	2.13	2.5	2.5	4.17	3
20	1.71	3	2.13	2.5	2.63	4.38	3
22	1.71	3.5	2.13	3	2.63	4.38	3.5
25	1.71	3.5	2.62	3	2.88	4.79	3.5
27	1.71	3.5	2.62	3	2.88	4.79	3.5
30	1.71	3.5	2.62	3	3	5	3.5
32	1.71	4	2.62	3	3	5	4
35	1.71	4	2.88	3	3.25	5.41	4
37	1.71	4	2.88	3	3.25	5.41	4
40	1.71	4	2.88	3	3.38	5.61	4
42	2.1	4.5	2.88	3.5	3.38	5.61	4.5
45	2.1	4.5	2.88	3.5	3.5	5.91	4.5
47	2.1	4.5	3.25	3.5	3.5	5.91	4.5
50	2.1	4.5	3.25	3.5	3.5	5.91	4.5
52	2.1	4.5	3.25	3.5	3.5	5.91	4.5
55	2.1	4.5	3.5	3.5	3.63	6.04	4.5
57	2.1	5	3.5	4	3.63	6.04	5
60	2.1	5	3.5	4	4	6.66	5
62	2.3	5	3.5	4	4	6.66	5
65	2.3	5	4	4	4.13	6.87	5
67	2.3	5	4	4	4.13	6.87	5
70	2.3	5	4	4	4.25	7.08	5
72	2.3	5.5	4	5	4.25	7.08	5.5
75	2.3	...	4.25	5	4.38	7.29	5.5
77	2.3	...	4.25	5	4.38	7.29	5.5
80	2.3	...	4.25	5	4.63	7.71	5.5
82	2.3	...	4.25	5	4.63	7.71	5.5
85	2.3	...	4.62	5	4.75	7.91	5.5
87	2.3	...	4.62	5	4.75	7.91	6
90	2.3	...	4.62	5	4.88	8.12	6
92	2.6	...	4.62	5	4.88	8.12	6
95	2.6	...	5	5	5.13	8.54	6
97	2.6	...	5	5	5.13	8.54	6
100	2.6	...	5	5	5.38	8.96	6
110	2.8	...	5.38	6.5	5.5	9.17	6.5
120	3.2	...	5.63	6.5	5.63	9.34	6.5
130	3.2	...	6.13	7	5.75	9.58	7
140	3.4	...	6.25	7	6	10	7
150	3.4	...	6.75	8	6.25	10.41	7.5
160	3.4	...	7.13	8	6.38	10.62	7.5
170	3.7	...	7.38	8	6.5	10.83	8

[fol. 2433]

APPENDIX D

Comparison of Rates and Car-Revenue Under Rates Assailed On Logs With Important Commodities Moving Between North Florida and Georgia Points On the Atlantic Coast Line

	Rates (in cents per 100 pounds)						Revenue Per Car					
	Logs		Georgia-Florida Interstate				Logs		Georgia-Florida Interstate			
Miles	Interstate	Florida Intrastate	Common Brick	Gravel and Sand	Lime	Cement	Interstate 55,000 lbs.	Florida Intrastate 55,000 lbs.	Brick 66,580 lbs.	Gravel and Sand 92,540 lbs.	Lime 50,000 lbs.	Cement 70,740 lbs.
5	2.5	1.71	3	2.5	2.8	4	$13.75	$9.41	$19.97	$23.14	$14.00	$28.30
10	2.5	1.71	3	2.5	3.6	5	13.75	9.41	19.97	23.14	18.00	35.37
15	3	1.71	3.5	2.75	4	6	16.50	9.41	23.30	25.45	20.00	42.44
20	3	1.71	3.5	2.75	4.4	7	16.50	9.41	23.30	25.45	22.00	49.52
25	3.5	1.71	4	3	4.8	8	19.25	9.41	26.63	27.76	24.00	56.59
30	3.5	1.71	4	3	5.2	8	19.25	9.41	26.63	27.76	26.00	56.59
35	4	1.71	4.5	3.5	5.6	8.5	22.00	9.41	29.96	32.39	28.00	60.13
40	4	1.71	4.5	3.5	6	8.5	22.00	9.41	29.96	32.39	30.00	60.13
45	4.5	2.10	5	4	6.4	9	24.75	11.55	33.29	37.02	32.00	63.67
50	4.5	2.10	5	4	6.8	9	24.75	11.55	33.29	37.02	34.00	63.67
55	4.5	2.10	5	4	7.2	9.5	24.75	11.55	33.29	37.02	36.00	67.20
60	5	2.10	5	4	7.6	9.5	27.50	11.55	33.29	37.02	38.00	67.20
65	5	2.30	5.5	4.5	8	10	27.50	12.65	36.62	41.64	40.00	70.74
70	5	2.30	5.5	4.5	8.4	10	27.50	12.65	36.62	41.64	42.00	70.74
75	5.5	2.30	6	4.5	8.8	10.5	30.25	12.65	39.95	41.64	44.00	74.28
80	5.5	2.30	6	4.5	8.8	10.5	30.25	12.65	39.95	41.64	44.00	74.28
85	5.5	2.30	6.5	5	9.2	11	30.25	12.65	43.28	46.27	46.00	77.81
90	6	2.30	6.5	5	9.2	11	33.00	12.65	43.28	46.27	46.00	77.81
95	6	2.60	6.5	5	9.6	11.5	33.00	14.30	43.28	46.27	48.00	81.35
100	6	2.60	6.5	5	9.6	11.5	33.00	14.30	43.28	46.27	48.00	81.35
110	6.5	2.80	7	5.5	10	12	35.75	15.40	46.61	50.90	50.00	84.89
120	6.5	3.20	7	5.5	10	12	35.75	17.60	46.61	50.90	50.00	84.89
130	7	3.20	7	6	10.4	12.5	38.50	17.60	46.61	55.52	52.00	88.43
140	7	3.40	7	6	10.4	12.5	38.50	18.70	46.61	55.52	52.00	88.43
150	7.5	3.40	7.5	6	10.8	13	41.25	18.70	49.94	55.52	54.00	91.96
160	7.5	3.40	7.5	6.5	10.8	13	41.25	18.70	49.94	60.15	54.00	91.96
170	8	3.70	8	6.5	11.2	13.5	44.00	20.35	53.26	60.15	56.00	95.50

NOTE: Loadings shown are the average for the system in 1925. Average haul for system in May, 1926: logs, 109 miles; brick, 213 miles; sand and gravel, 120 miles; lime, 217 miles; cement, 243 miles.

[fol. 2433a] APPENDIX E

Docket No. 18364

Minimum Rates Prescribed Herein on Florida Intrastate Log Traffic

Distance	Rate[1] cents per 100 pounds
10 miles and under	2.5
20 " " over 10	3
30 " " " 20	3.5
40 " " " 30	4
55 " " " 40	4.5
70 " " " 55	5
85 " " " 70	5.5
100 " " " 85	6
120 " " " 100	6.5
140 " " " 120	7
160 " " " 140	7.5
170 " " " 160	8

[1] Minimum 50,000 pounds.

[fol. 2434] BEFORE INTERSTATE COMMERCE COMMISSION

Fifteen Per Cent Case, 1931. Ex Parte No. 103

In the Matter of Increases in Freight Rates and Charges

ORDER—Dec. 24, 1931

It appearing, That by its reports entered in the above-entitled proceeding, 178 I. C. C. 539, 179 I. C. C. 215, which are hereby referred to and made a part hereof, the Commission authorized certain increases in the rates and charges of railroads within the continental United States;

It is ordered, That all outstanding unexpired orders of the Commission, whether or not effective upon the date of this order, authorizing or prescribing rates and charges which have or have not been published at the date of this order, and all outstanding suspension orders, be, and they are hereby, modified to the extent necessary to permit the

increases herein authorized to be applied to the rates and charges authorized or prescribed in or maintained or held by virtue of said outstanding orders; but that in all other respects said orders shall remain in full force and effect.

It is further ordered, That all tariffs or supplements changing rates now maintained or held by virtue of outstanding orders of this Commission shall bear on their title-page the following:

Rates shown in this supplement (or tariffs supplemented hereby) published under authority of outstanding orders of the Interstate Commerce Commission are increased herein under authority of order of the Interstate Commerce Commission in Docket No. 103 (Ex Parte), dated December 24, 1931.

And it is further ordered, That a copy of this order be served on each carrier party to said orders and that a copy thereof be inserted in the docket in each such proceeding.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fols. 2435–2495] Report and order of the Commission on further hearing omitted, printed side page 39, ante.

[fol. 2496] Order of Interstate Commerce Commission, on the 28th of July, 1932, omitted, printed side page 100, ante.

[fol. 2497] Before Interstate Commerce Commission

[Title omitted]

No. 18364

Order—Aug. 13, 1932

Upon further consideration of the record in the above-entitled proceeding and of motion filed by Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company, and Wilson Lumber Company of Florida for

postponement to November 15, 1932, of the effective date of the order heretofore entered in said proceeding:

It is ordered, That said motion be, and it is hereby, denied.

By the Commission.

George B. McGinty, Secretary. (Seal.)

[fol. 2498] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted]

MOTION ON BEHALF OF BROOKS-SCANLON CORPORATION, WILSON CYPRESS COMPANY, CUMMER CYPRESS COMPANY, AND WILSON LUMBER COMPANY OF FLORIDA FOR POSTPONEMENT OF EFFECTIVE DATE OF FINAL ORDER OUTSTANDING IN THIS PROCEEDING—Aug. 10, 1932.

Come now, Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company, and Wilson Lumber Company of Florida, Florida log shippers interveners herein, who are referred to in the Commission's report as "the Florida interveners," and respectfully, and for reasons set forth below, move that the effective date of the outstanding order of the Commission, entered herein on July 5, 1932, be postponed to November 15, 1932.

I

The report in this proceeding dated July 5, 1932, is extraordinarily long and involved, and was rendered by the full Commission.

II

The issues in this proceeding are of the greatest importance, involving as they do, the question of conflict between federal and state power.

III

These movants now have in course of preparation and will very shortly file with the Commission a petition for further hearing in and reconsideration of this proceeding.

IV

Because of the season it appears likely that considered action by the full Commission on said petition for further hearing in and reconsideration of the matter may be delayed.

V

In the event that said petition is denied by the Commission these movants propose to assert their legal rights in the Courts; and because of the season difficulty and delay [fols. 2499 & 2500] are anticipated in the convening of the statutory court to which any appeal for relief from the order of the Commission must be presented.

VI

Orderly procedure makes it desirable that the petition for further hearing and reconsideration be passed upon before these movants assert their legal rights in the Courts and unless the effective date is postponed it is improbable that such orderly procedure can be followed.

VII

Under the circumstances the outstanding order of the Commission herein should be postponed until November 15, 1932, and your movants respectfully pray accordingly.

Respectfully submitted, Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company, Wilson Lumber Company of Florida, by H. P. Adair, C. G. Ashby, Atlantic Natl. Bank Bldg., Jacksonville, Florida; C. E. Cotterill, 70 E. 45th St., New York, N. Y.; August G. Gutheim, 712 Jackson Place, Washington, D. C.; J. V. Norman, Inter-Southern Bldg, Louisville, Ky., Attorneys.

[fol. 2501] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18,364

[Title omitted]

PETITION ON BEHALF OF BROOKS-SCANLON CORPORATION, WILSON CYPRESS COMPANY, CUMMER-CYPRESS COMPANY, AND WILSON LUMBER COMPANY OF FLORIDA, INTERVENING FLORIDA LOG SHIPPERS, FOR FURTHER HEARING IN, AND RECONSIDERATION OF, THE ABOVE-ENTITLED PROCEEDING—Aug. 17, 1932.

Come now Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company and Wilson Lumber Company of Florida, Florida log shippers, interveners herein, and referred to in the Commission's report as "the Florida interveners," and respectfully petition the Commission to grant a further hearing in and reconsideration of the above-entitled proceeding; and in support of said petition respectfully show:

I

The Commission erred in denying the motion made by the Florida interveners to dismiss the complaint insofar as it alleged that the Cummer scale of Florida intrastate log rates unduly burdens interstate commerce; also in permitting the defendants to introduce evidence on that issue [fol. 2502] when no evidence respecting that issue had been introduced by the complainants.

The report of the Commission (sheet 4) states that:

"At the further hearing the Florida interveners moved that the complaint should be dismissed as to the issue whether the Florida intrastate rates cause unjust discrimination against interstate commerce, if the complaint raises such an issue, which they still question, because of the absence of any legal interest in that issue by complainant and its failure to introduce evidence in support thereof.

This language states the Motion to dismiss too broadly. As shown by Tr. 993, the Motion made was as follows:

"Come now intervening shipper defendants herein, and in the light of the Examiner's ruling declaring that the

undue burden issue is involved in this case by the proceedings of the complainant, respectfully move dismissal of that part of the complaint of the Georgia Public Service Commission, which as thus construed, would allege that the Cummier scale of the Florida intrastate log rates unduly burdens interstate commerce."

The complaint alleged among other things a violation of Section 13. Upon the original hearing the complainant disclaimed any attempt whatever to prove that Florida intrastate rates burdened interstate commerce, and offered no evidence whatever to prove any such burden. At the further hearing complainant declined to state whether or not its position had been changed in this respect, and was supported in its refusal so to declare by ruling of the Examiner. Complainant, however, did not, at the further hearing, offer any evidence whatever, designed to prove [fol. 2503] that the Florida intrastate rates resulted in a revenue burden upon interstate commerce.

The Courts have recognized that violations of Section 13 may be particular, involving unjust discrimination as between persons and localities in interstate commerce on the one hand, and general, in that intrastate rates may lay a revenue burden upon interstate commerce on the other hand. Railroad Commission v. Chicago, B. & Q. R. Co., 257 U. S. 563; Florida v. United States, 282 U. S. 194, 214, 579-580, 584,585; State of Florida v. United States, 31 Fed. (2d) 580, 581-582.

Insofar as the complaint alleged violation of Section 13, therefore, the record is that the complainant upon the first hearing disavowed any intention to make a revenue case; upon the second hearing it declined to state further in that respect, and was upheld in its refusal by the Examiner; but further, upon the second hearing, complainant offered no evidence whatsoever designed to prove that there was a violation of Section 13 by virtue of a revenue burden cast upon interstate commerce by the Florida intrastate log rates. Under such circumstances the motion to dismiss made by the Florida interveners should have been granted and the defendants should not have been permitted to offer any evidence bearing upon the issue of a revenue burden upon interstate commerce, violative of Section 13.

II

The Commission erred in reciting and giving consideration to the history of the establishment and the development of the Cummer scale and to rate comparisons offered to prove that the rates in the Cummer scale are abnormally low.

[fol. 2504] The report (sheet 5) states that—

"The principal issue upon rehearing was whether the Cummer scale causes unjust discrimination against interstate commerce and that issue will now be considered."

At the conclusion of the report (sheet 50) the Commission states—

"Inasmuch as we find that the Cummer scale rates cause unjust discrimination against interstate commerce from a revenue standpoint and our order herein removes that discrimination by increasing those rates on defendant's lines throughout the State of Florida to the level of the interstate rates previously prescribed and now in effect, no finding in reference to undue prejudice against persons and localities in interstate commerce is necessary and we make no finding in that regard."

Thus the Commission here recognizes the distinction between violations of Section 13 occasioned by unjust discrimination against persons and localities in interstate commerce and those occasioned by a revenue burden cast upon interstate commerce by intrastate rates. As to the first of these, the Commission makes no finding whatever; it therefore grounds its decision entirely upon the issue of unjust discrimination against, occasioned by a revenue burden upon, interstate commerce. As shown under Item I of this petition, the complaint should have been dismissed in that respect, as complainant first disavowed and then offered no evidence whatever pertaining to a violation of Section 13 occasioned by a revenue burden upon interstate commerce.

[fol. 2505] In this very proceeding the Supreme Court has held that—

"In dealing with unjust discrimination as between persons and localities in relation to interstate commerce, the question is one of *the relation of rates to each other*. In considering the authority of the Commission to enter the

State field and to change a scale of intrastate rates in the interest of the carrier's revenue, the question is that of *the relation of rates to income*. *Florida* v. *United States*, *supra*, p. 214. (Italics ours.)

In other words, the opinion of the Court is that in order to prove a revenue burden upon interstate commerce, it is necessary to consider the relation of rates to the income which such rates produce. This, moreover, means the net income which the rates produce. For the Court further says on the same page—

"The raising of rates does not necessarily increase revenue. It may in particular localities reduce revenue instead of increasing it by discouraging patronage."

In this report the Commission commences (sheet 5) by recognizing that the principal issue is that of unjust discrimination against interstate commerce. It concludes (sheet 50) with a disavowal of any finding or intent to find unjust discrimination against persons and localities in interstate commerce. It erred, therefore, in reciting or giving any consideration whatever to such evidence as rate history and rate comparisons. Evidence of that character does not prove a revenue burden upon interstate commerce, and the Supreme Court, it may be noted, has further said in this very case that—

[fol. 2506] "The Commission has no general authority to regulate intrastate rates and the mere existence of a disparity between particular rates on intrastate and interstate traffic does not warrant the Commission in prescribing intrastate rates." Florida v. United States, supra, p. 212.

This rule of law, it may be noted, the Commission itself observed in another case involving Florida intrastate rates, where, although disparity did exist between such rates (on fertilizer) and interstate rates, it expressly refrained from placing the intrastate rates on a level uniform with the interstate rates. Rates on Fertilizer Materials within State of Florida, 151 I. C. C. 692.

III

The Commission erred in giving consideration to the system revenue return and to the relation of log traffic

and log revenue to total traffic and total revenue, and in relying upon such evidence in fixing rates for the future upon a limited class of traffic moving in a restricted territory. It has been elementary for many years that a carrier cannot claim the right to earn a uniform profit from every mile, from every section, or from every other part into which its property might be divided, or upon each individual unit of service which it performs.

The mere fact that the rate of return of the carrier's system net railway operating income declined from 6.11 per cent in 1926 to 2.37 per cent in 1930 (sheet 14) constitutes no reason why rates on logs for hauls up to 170 miles in the State of Florida should be increased, and this is so regardless of whether or not such decline in the rate of return might justify a general adjustment of the carrier's entire rate structure. Individual rates on restricted lines of traffic are not proved unreasonably low by any [fol. 2507] such evidence; indeed, Section 15a (2) seems to so recognize in the proviso that—

"The Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country."

We refer in this same connection to the discussion of Commissioner Woodlock based upon the foregoing statutory proviso as elaborated by the Supreme Court in Dayton-Goose Creek R Co. v. United States, 263 U. S. 456,—See Dutton Lumber Co. v. New York, N. H. & H. R. Co., 151 I. C. C. 391, 406.

Nor does it justify the Commission, in increasing rates on logs in Florida, to show (sheet 15) that in 1928—

"The system log tonnage constituted 7 per cent of the total system tonnage, whereas the revenue from the log tonnage was only 1.9 per cent of the total revenue."

This might very naturally result from the characteristics of the tonnage handled, or from variations in the length of the haul. But to order the rates on logs within Florida increased because of the facts so recited is tantamount to ordering the increase in the rates on logs for hauls up to 170 miles within Florida (a very low grade of traffic) because the revenue per ton mile on such traffic is less than

the average revenue per ton mile on all traffic on the entire system. In this connection, and with particular reference to the subject of traffic density, it may be observed that the total traffic of the Atlantic Coast Line system is shown by the tabulation on sheet 15 to have declined 18 [fol. 2508] per cent in 1930 as compared with 1928; the decline in Florida was but 12 per cent.

These petitioners deny that the defendant's evidence "showing all shipments for the kinds of logs here in question which moved over its lines intrastate in Florida during the period from February 8, 1929 to January 31, 1931," (being Perrin Ex. 61) is of much assistance in the determination of the effect of increased intrastate log rates in Florida on the revenues of the defendant. (See sheets 15, 16.) The value of this evidence was greatly minimized, if; indeed, it did not become entirely valueless, because of the failure of the defendant to present a similar statement of such shipments in the immediately preceding like period when the Cummer scale of rates was in effect. This data, although peculiarly in the possession of the defendant, it failed to produce, and the Commission failed to require its presentation. We refer in this connection to our Brief, pp. 14-15, 25, and 38.

The consequence is that the record herein, voluminous as it is, contains no complete and dependable comparison of the actual movement of logs intrastate within Florida, and the revenues upon that traffic, first, upon the Cummer scale, and second, upon the Commission-made scale. As a result, the Commission is throughout the report forced to rely upon deduction, estimate, and conjecture where mathematical certainty is desirable and possible. (See Report, sheets 15, 22, 23.) The Commission should upon the further hearing, grant the request of the Florida interveners and require the Atlantic Coast Line, alone in possession of such data, to produce it.

IV

The Commission erred in giving consideration to the influence which the maintenance of the Cummer scale of [fol. 2509] rates in Florida might have upon the maintenance of other rates on logs.

This record definitely shows that the intrastate rates on logs on the Atlantic Coast Line varied in the different

states in which it operates. (See our Brief, p. 9.) There was no evidence by any witness called to speak on the subject which proved or tended to prove that the conditions of intrastate log transportation in the various states through which the defendant's line operates, are substantially similar, and this statement is made despite the language of the report (sheets 48 and 49) that "the circumstances and conditions surrounding the transportation of these logs intrastate in Florida are not on the whole as favorable as the circumstances and conditions surrounding the interstate movement of logs over defendant's lines." It does, on the other hand, appear that the movement of logs in Florida vastly exceeds the volume of any other intrastate log movement on the Atlantic Coast Line system, and further, that as conducted on the Cummer scale, it was largely a trainload movement, highly economical in character.

The Supreme Court in this very proceeding has stated it to be the law that—

"The Commission has no general authority to regulate intrastate rates and the mere existence of a disparity between particular rates on intrastate and interstate traffic does not warrant the Commission in prescribing intrastate rates." Florida v. United States, supra, p. 212.

A fortiori, disparities between the Florida intrastate rates on logs and other intrastate rates does not confer upon the Interstate Commerce Commission authority to [fol. 2510] regulate the intrastate rates on logs in Florida. The law does not require uniformity of rates.

V

The Commission has erred in its conclusions that—

"It is clear that the decline in the Florida log movement cannot be ascribed wholly to the rate advance. Part of the decline has no doubt been due to that cause but a large part has been due to the change from mill locations uneconomical because too far from the timber and cessation of movements because of exhaustion of timber." (Sheet 22.)

"While there has been a substantial decline in the Florida log traffic, there have also been declines in other traffic, and the same forces that operated to cause a decline in

other traffic were also no doubt responsible for much of the decline in the Florida log traffic." (Sheet 23.)

The language thus excerpted seems to indicate a view on the part of the Commission that general depression has caused the greater part of the decline of the log traffic which followed the application of its own higher rates, and that those rates were responsible for only a relatively smaller part of the decline. The facts of record are to the contrary. See Brief, pp. 44-46.

The sole reason for the removal of the Putnam Lumber Company, the Cummer Lumber Company, and the Brooks-Scanlon mills from suburban Jacksonville to the timber was the rate increase prescribed by this Commission. In the case of the Putnam Company, the agitation of the rate question resulted in the disruption of the all but completed negotiations for the sale of their Jacksonville suburban properties to the Denkmann interests, who intended [fol. 2511] to continue the operation there, the fact being that no assurance could be had from the defendant Atlantic Coast Line Railroad Company as to log rates for the future. Cummer followed suit. (Brief, pp. 27-28.) The action of the Brooks-Scanlon Corporation in abandoning its Eastport mill location and going to the timber was also the direct result of the institution of the higher intrastate rates on logs prescribed by the Interstate Commerce Commission. Many years of prosperous life were ahead for these suburban Jacksonville plants and hundreds of thousands of dollars were lost directly and more hundreds of thousands of dollars were lost indirectly because of the necessity of the removal of the mills. (See Brief, pp. 29-30.)

While it is true that the movement of the Wilson Cypress Company's logs from Hines to Palatka continued, the circumstances in its case are unique. It chose to continue operation of the mill at Palatka in reliance upon a favorable outcome of this litigation, and it is now before the United States District Court for the Northern District of Georgia endeavoring to obtain restitution of large sums unlawfully exacted from it by the Atlantic Coast Line in pursuance to the unlawful orders of this Commission which the District Court erroneously failed to enjoin. (See Report, sheet 16.)

Furthermore, the higher rates which were so maintained in effect in 1929 and 1930 and part of 1931, resulted in much timber being uncut and left standing in the woods, permanently wasted, because it could not stand so high a freight rate. (See our Brief, pp. 32-35.)

It is true that it is uneconomical for mills to be newly located far from the timber but the Putnam, Cummer, Brooks-Scanlon, and Wilson Cypress mills had long been located far from the timber in reliance upon the mainte-[fol. 2512] nance of rates that permitted such operation. Being so located it would have been entirely economical to continue operations in such location and thereby to continue to contribute to the revenues of the Atlantic Coast Line for a considerable volume of log tonnage.

It is impossible on the state of the record to make an accurate comparison of the log revenues of the Atlantic Coast Line resulting from transportation upon the Cummer scale and upon the scale prescribed by this Commission for the same hauls. This is due to the fact that the carrier, although it made a detailed presentation of both tonnage and revenues during the two years the higher rates were in effect, made no comparative presentation of the tonnage and revenues for the two preceding years under the carrier's voluntarily maintained Cummer scale; and moreover, this Commission declined to require the carrier to make such a comparison available although the facts were peculiarly within its possession and not available to the Florida intervenors. (See Paragraph III, supra.)

However, it does definitely appear that whereas under the Cummer scale, and before any of these mills were forced to move to the timber, the Florida log revenues resulting from trainload movements only on the Cummer scale, amounted to $652,311.87 in the calendar year 1926; under the much higher rates prescribed by this Commission the total Florida log revenues both for trainload and individual carload movements aggregated only $275,370.95 in the year February 1, 1930 to January 31, 1931.

Moreover, in this latter year the individual carload movements of logs numbered but 3,204. The balance of the traffic was the trainload movement of the Wilson Cypress

Company from Hines to Palatka, which alone produced slightly in excess of $200,000 of gross revenue. This was [fol. 2513] a movement, which as already said, continued only in reliance upon a favorable outcome of this litigation, and at any rate, the remaining timber of the Wilson Cypress Company, located in the vicinity of Hines, would all be transported under normal conditions in about 18 months. In other words, that traffic is also lost for the future. (See our Brief, pp. 32, 39.)

It is true, as the report (sheet 21) says, that representatives of the Putnam Lumber Company, Brooks-Scanlon Corporation, and the Cummer Cypress Company "testified at the further hearing that they would not resume the shipment of their logs over defendant's lines even if the Cummer scale remained in effect." Quite obviously, although the report does not so state, they could hardly be expected to continue to ship to mills which had been dismantled because of the high rates prescribed by this Commission. They had been forced to relocate the mills in the timber at a cost to them of several millions of dollars; they could hardly be expected thereafter to ship from the woods to their former locations for the benefit of the defendant Atlantic Coast Line Railroad Company.

The fact is that whereas before this litigation started, the Atlantic Coast Line earned on its trainload log traffic under the Cummer scale in Florida $652,311.87 of gross revenues in the year 1926, its earnings on the total trainload and carload traffic, which is all the log traffic now left to it in Florida, even under the greatly increased rates prescribed by this Commission and effective during the period from February 1, 1930 to January 31, 1931, produced only $275,370.95 of gross revenue, and this is much more than the maximum that the Atlantic Coast Line may look for under the same level of rates in the future, for of that sum more than $200,000 was produced by the train- [fol. 2514] load movement from Hines to Palatka, which in any event must terminate shortly.

The assertion of the defendant that the relocation of mills from the vicinity of Jacksonville to Foley and Cross City has had a favorable effect upon its revenues (sheets 19-20) is entirely without basis of fact. The computations made by the defendant, and relied upon by the Commission in this respect, all overlook the essential fact that 350

pounds of logs, approximately, are necessary to produce 100 pounds of lumber. When the logs were milled at Jacksonville it was necessary to transport 350 pounds of logs to Jacksonville in order to produce 100 pounds of lumber at Jacksonville. To use the illustration recited in the report, therefore, it would be necessary, in order to produce 52,000 pounds of lumber in Jacksonville, to move 182,000 pounds of logs to Jacksonville. This would be the equivalent of just about three of the average carloads of 60,200 pounds of logs referred to by the Commission, and on the basis of an average revenue of $20.47 per car of logs, the average gross revenue earned by the Atlantic Coast Line would be $61.41. Compared with this their earnings on the carload of 52,000 pounds of lumber from Foley to Jacksonville would be but $47.53 and from Cross City to Jacksonville but $43.33.

If, to carry the illustration farther, the lumber instead of moving to Jacksonville, moved in either instance to northern markets, the revenue on the lumber from the mill in the timber would be 1 cent per hundred pounds greater on the lumber than from the mill at Jacksonville. In other words, the additional revenue on lumber from the mill in the woods would be $5.20 per car. To earn this as an incident of the location of the mill in the woods, the Atlantic Coast Line in the illustration given above, has contempo- [fol. 2515] raneously lost $61.41 of gross revenues from log transportation.

VI

The Commission has erred in its conclusion with respect to future log traffic in Florida, that (sheet 29):

"In view of the vast quantity of timber in Florida tributary to defendant's lines, the large number of mills located on defendant's lines at widely scattered points in Florida, and the probability of the establishment of new mills, large and small, we entertain no doubt that the log traffic will increase well above the present volume when economic conditions change for the better."

If this conclusion of the Commission merely contemplates that some time in the future there will be a movement of logs on the Atlantic Coast Line somewhat greater than the movement to just three destinations in Florida—

which was all the Florida log traffic enjoyed by the Coast Line at the time the hearings closed—there may be some justification for the Commission's statement. But we assume that the Commission has something more in mind.

The report states (sheet 25) that—

"The record affords no accurate basis of determining how much of the standing timber in Florida is tributary to the Atlantic Coast Line."

That is exactly the state of the record. The conclusion which the Commission has reached on this subject is one that is based entirely upon incorrect mathematics and an unwarranted assumption on the part of the defendant, all directly contrary to the very definite testimony of the Flor- [fol. 2516] ida interveners with respect to this subject. All of these Florida intervener witnesses who testified on this subject were men actively engaged in the lumber business in Florida, and informed by virtue of long years of experience in the industry and acquaintance with actual conditions, to speak with authority on the matter.

It is first to be observed that the figures published by the U. S. Department of Agriculture and showing standing pine timber in Florida (sheets 23-24) are figures for the entire state; they are not figures of pine timber "now reasonably adjacent to railroad," as to which there may be noted the statement of the defendant's traffic manager, quoted on sheet 25 of the Commission's report herein.

Furthermore these government figures for the entire state include that vast area of western Florida, principally beyond the Appalachicola River, which is not at all tributary to the Atlantic Coast Line. It is not the fact that the main and branch lines of the carrier form a network which virtually covers the state except the extreme southeastern portion. See the map, Pettijohn Ex. No. 100.

Such being the circumstances, the Freight Traffic Manager of the Atlantic Coast Line was entirely unwarranted in assuming (sheet 25) that in the future the Coast Line will transport 40 per cent of the logs to be produced in Florida from timber now standing, i. e., approximately 9 billion feet. This 9 billion feet results merely from the application of 40 per cent to the departmental figures showing standing pine timber for all Florida.

Again, the Freight Traffic Manager of the Coast Line, was entirely unwarranted in assuming that the average haul of logs in the future would be 81 miles. That figure [fol. 2517] he deduced from the haul of the log traffic on his railroad in Florida in the two years, approximately, 1929-1930, shown on his Ex. 61. He neglected to observe that more than half of the business shown on that exhibit is made up of long haul log movements which either have been wholly discontinued, or if continued, have continued in reliance upon a favorable outcome of this litigation, and which will not, in any circumstances, be business enjoyed by the Coast Line in the future. When such movements—that from Hines to Palatka, that from Homosassa to Lacoochee, and the various movements to Eastport are eliminated from the Coast Line's Florida log traffic of 1929 and 1930—the average haul instead of being 81 miles, would be less than 50 miles.

Again, there was an unwarranted assumption on the part of the defendant's Freight Traffic Manager that the same transportation would be performed at the rates prescribed by the Interstate Commerce Commission, for the record definitely shows that that transportation will never be performed at the rates so prescribed by this Commission. The bulk of the transportation on the Cummer scale, as already shown, was in the trainload movements, which have been discontinued and which will never again be necessary because the mills have been forced into the timber by these very high rates prescribed by the Commission. Furthermore, the Commission recognizes that in the construction of mills in these times, it is uneconomic to locate except in the timber. This being so, log hauls for the future will necessarily be at a minimum. The Hines to Palatka movement, it is to be remembered, has been continued only in the hope of a favorable outcome of this litigation, and at any rate, would under normal conditions be finished in about 18 months, as the Commission finds (sheet 26).

[fol. 2518] Along this line it may be observed that the Georgia lumbermen who appeared on behalf of complainant at the original hearings but did not appear at the rehearing, were a unit in stating that the ordinary maximum haul of log traffic would not exceed thirty miles.

The rate prescribed herein by the Commission for hauls of 30 miles is 3.5 cents per hundred pounds—just about

the equivalent of the maximum rate of 3.7 per hundred ponds on the Cummer scale. In North Carolina, where there was formerly a trainload movement of logs on the Coast Line, the average haul was very short, running about 20-25 miles. That particular North Carolina shipper has arranged for the transportation of his logs by water, because of the Coast Line's high rate by rail in North Carolina. (See Brief, p. 12.)

While it is true that as stated (sheet 27) the defendant showed movements to some 17 destinations during the five months' period, February-June, 1931, the witness who offered this evidence on behalf of the Coast Line (Perrin, Ex. 128) admitted that in submitting those figures he did not intend to contradict the previous testimony of his Superintendent of Transportation Langley that at the time of that very hearing the only intrastate movement of logs in Florida was restricted to just three destinations. (See our Brief, pp. 37-38.) It cannot be forgotten that the rates changed during this five months period; the Commission-made high rates were effective until April 10, 1931, but thereafter the Cummer scale applied. Most certainly, therefore, the movement from April 10 to June 30 is no criterion of a future movement at a rate level twice as high. And observe that of the 2,765 cars said to have been moved in that five months period to 17 destinations, more than two-thirds moved in trainloads from Hines to Palatka—[fol. 2519] the same movement hereinbefore several times referred to.

The further fact is that about the only log traffic left in Florida outside of the Hines to Palatka movement, is incidental hardwood traffic, for the pine traffic has been demolished by the high rates fixed by this Commission. It is this incidental hardwood traffic which in future years must be relied upon to produce log revenues for the Coast Line. In view of the few hundred carloads transported in the latest period of which record was made,—February-June, 1931, the Florida interveners confidently assert that never in the future will the Atlantic Coast Line approach in gross revenues from Florida intrastate log traffic even a small part of the $652,311.87 of gross revenues earned from trainload movements on the Cummer scale in the year 1926, before this litigation commenced.

VII

The Commission erred in giving any consideration whatsoever to the defendant's general studies of costs of log transportation in Florida, discussed in the report at sheets 30-36.

As the Commission finally agrees (sheet 39) these general cost studies are no more than what these intervenors showed them to be, and what defendant finally admitted them to be,—mere system averages of total costs based upon an expansion of a system average out-of-pocket cost. (See our Brief, pp. 59 et seq.).

It is a fair criticism of these cost studies to say that they were merely introduced by way of incidental support of a preconceived determination to prove that the cost of transportation of logs in Florida exceeded the revenue from such transportation upon the Cummer scale. [fol. 2520] The studies being based upon the average cost of handling all traffic in the State of Florida, there is necessarily included in that average and assessed against the transportation of logs, the average cost of handling all freight in Florida, including the very expensive traffic in fruits and vegetables which constitutes about 25 per cent of the total tonnage handled on the Atlantic Coast Line in that state. This is originated tonnage and necessarily its transportation involves one terminal handling cost in Florida.

Moreover, the traffic on the Atlantic Coast Line in Florida almost without exception, regardless of the commodity handled, is a traffic which involves at least one terminal service in that state. All such factors tend to inflate the average cost of handling traffic in the State of Florida, and it is nothing short of preposterous to argue that such an average cost is in any way indicative of the actual cost of transporting logs in Florida, or within the range of any average maximum and minimum cost of transporting logs in Florida.

One of the arbitrary assumptions indulged in by the author of these general cost studies is that respecting the empty return movement of cars loaded with logs. He assumes that every such car invariably returns empty from the unloading point back to the loading point, and he charges the cost of such empty haul against the revenue from the load of logs. The record does to be sure, admit

the usual empty return of the specially equipped log cars handled in trainloads. But that business is practically ended—demolished by this Commission's own rates. The record does not show that the return movement of other cars handling logs is 100 per cent empty.

This unwarranted assumption results in an error of great magnitude. As is shown by Lamb's general cost [fol. 2521] studies, Exs. 86-99, the tons assumed to be handled in empty return movement average 16½ per car; this is almost 30 per cent of the gross weight of car and contents assumed to be hauled in transportation both ways, going and returning, and compensated for solely by the revenue on logs, on the Cummer scale.

It is apparent that this error is the more applicable if the future log traffic consists of scattered carloads, rather than trainloads, whereas the Commission has found herein that the costs in connection with the trainload movement are undoubtedly less than the cost in single carload lots. (See Report, Sheet 39.)

Furthermore, as the report notes on sheets 32 and 33, exhibits of record were erroneous in the use of the expansion ratio by which the out-of-pocket average costs were expanded to total costs. The erroneous exhibit of record were the defendant's exhibits. The fact is that the defendant first produced correct exhibits, next withdrew them and produced erroneous exhibits, and finally agreed that the first exhibits were correct, and the second exhibits were wrong. But nevertheless, the conclusion which defendant's witness drew from these exhibits was stated and adhered to with respect to the erroneous exhibits as well as to the correct exhibits. This, these interveners insist, is certain indication that, as already said, the exhibits were merely introduced as incidental support of a preconceived notion and contention. We refer in this respect to our Brief at pp. 51-58.

With reference to the contention of the defendant with respect to what is shown by these general cost studies, the report says (referring to the witness through whom they were introduced—sheet 35) that, "based on *his survey of the application of the Cummer scale* of rates and from his experience as an accountant, he expressed the [fol. 2522] opinion that the Cummer scale does not afford a revenue which is equal to the cost of doing the business covered thereby * * *." (Italics ours.)

This is indeed charitable language. The fact is that this particular witness who thrice changed his testimony with respect to the mathematics of his cost studies, but who adhered nevertheless to the same conclusion as respects all of them, whether right or wrong, knew nothing whatever of the transportation of logs on the Cummer scale and indeed, knew little of transportation conditions on the Atlantic Coast Line in Florida. He had, for instance, never made any particular investigation of the highly perishable fruit and vegetable traffic; he had made no investigation of the conditions under which it was transported; he did not know if its handling cost was higher than the average of all freight; he knew little about its volume. Nevertheless, with respect to the conclusions which he drew from his cost calculations, right or wrong, he testified—

"I base my statement on the facts I have developed and my general knowledge of cost accounting."

Not upon any "survey" in Florida, it will be noted.

The Commission, these interveners respectfully submit, should attach no weight to such cost studies. It should not have recited them in the report, nor have given them any consideration whatsoever.

VIII

The Commission erred in giving any consideration whatever to the defendant's showing of the actual out-of-pocket expenses for the movement of logs from Hines to Palatka [fol. 2523] during the month of November, 1930, set forth in the report at sheets 36-39.

These interveners note again (see our Exceptions to Proposed Report herein of the Examiners, p. 12) that the Commission states with respect to this Hines to Palatka cost study for November, 1930, that it was "agreed to be typical of the year 1930." These interveners reiterate most emphatically that they did not agree to accept the figures contained in Ex. 133, setting forth this cost study, as "typical." Tr. 1539-1540 leaves no room to contend the contrary. At that point in the record the statistician of the Florida Railroad Commission stated—

"We do not admit the accuracy of all the figures in accepting this in lieu of what is demanded."

To which the presiding Examiner then rejoined—

"No one admits the accuracy of figures in some one else's exhibit."

It is to be observed that this Hines to Palatka out-of-pocket cost study was introduced in the closing moments of the final hearing in this proceeding and by a witness who merely submitted information which he stated was furnished to him by other parties. (Tr. 1538-1539.) His attention was immediately directed to the fact that comparison with other statistics which he had submitted indicated that the amount charged for locomotive fuel coal on these log trains was very much higher than on the Third District as a whole. This discrepancy the witness was unable to explain (Tr. 1540-1541). His subsequent explanation by letter was totally inadequate.

The note to the report at sheet 16 states that suits for restitution for the recovery of all amounts paid in excess [fol. 2524] of the Cummer scale rates during the period when the unlawful higher rates prescribed by this Commission were effective, are now pending. These suits are pending in the United States District Court for the Northern District of Georgia, Atlanta Division. As a part of its defense to such suits the Atlantic Coast Line offered before the Master to whom the question has been submitted, this same Hines to Palatka out-of-pocket cost study, Ex. No. 133 in this proceeding, and through the same witness. In the proceeding before the Master there devolved upon the carrier a duty unfortunately not required of it before this Commission—to prove that exhibit with some reasonable regard to the Rules of Evidence. It then appeared that in calculating the cost of locomotive fuel expended in the Hines to Palatka movement an average price per ton was used made up of the f. o. b. mine price, foreign railroad freight charges from mine to junction with the Coast Line, and 5 mills per ton per mile for transportation of such coal on the rails of the Atlantic Coast Line to the Florida destination.

For the inclusion of this last item,—an arbitrary charge for transportation of fuel coal on the rails of the consuming carrier,—there is no warrant whatever in the classification of operating expenses prescribed by this Commission. There is, indeed, express prohibition against the inclusion of such charges. It further appeared in the

evidence before the Master that no such charge is ordinarily made to operating expenses on the Atlantic Coast Line Railroad, and also that the charge was included in this particular cost study upon the instructions of witness Lamb, who was unable to explain the discrepancy when present in person, as a witness, and who, it may be observed, being Auditor of the Atlantic Coast Line, should [fol. 2525] certainly be acquainted with the requirements of this Commission's classification of operating expenses.

The result of this manner of computing locomotive fuel cost to be included in this particular cost study has been to inflate the total out-of-pocket cost shown in that study just about 33⅓ per cent. This erroneous charge is of course accentuated, and made worse, when the total out-of-pocket expense is subsequently expanded to produce a figure of total operating expenses.

Not only is this criticism in the matter of price for locomotive fuel fairly to be directed against witness Lamb and his Ex. 133, but the proceedings before the Master also indicate that it is gravely to be doubted whether the number of tons of fuel coal charged against the transportation of logs from Hines to Palatka is correct. The evidence before the Master shows that all coal delivered to engines which handled those log trains, were charged against the Hines to Palatka transportation. It does not as yet definitely appear whether those locomotives performed other transportation with the same coal, nor, indeed, does it yet appear who authorized the charging of this particular coal delivered to these particular engines to the Hines to Palatka cost study, on the ground that these engines actually performed the Hines to Palatka log transportation.

The Commission in the further hearing should require of the carrier that it support its contentions as set forth in Lamb Ex. 133 by the production of original evidence under the Best Evidence rule. The Commission, in determining these issues should have the benefit of the evidence before the Master.

[fol. 2526] IX

The Commission has erred in the conclusion (sheet 42) that—

"* * * it is apparent that the operating expenses allocated by defendant to Florida are not actual but construc-

tive expenses, and that they are understated to an unknown extent. In view of this fact, system figures including Florida, which are not in question, may be utilized as the basis for approximating the cost of transporting logs in that State;"

and, further, has erred in assuming to measure the cost of transporting logs in Florida on the basis of system average operating results on the theory that such system average operating results indicate the cost of transporting the average car of logs in Florida as shown in Appendix E, and discussed in the report at sheets 42-46.

Appendix E, which was presumably made by the Commission and which was not submitted to these interveners upon hearing, for their examination, is nothing but a system average cost study of the class recognized by the Commission in this report to be condemned by the Supreme Court of the United States in Northern P. R. Co. v. Department of Public Works, 268 U. S. 39. "But," says the Commission, (sheet 42)—

"ordinarily it would be unsound to use a system unit cost to determine the cost in a particular state, but since it is indisputable that unit costs are higher in Florida than elsewhere on the system, it seems clear that system unit cost may be used to find a cost that may be said to be less than the cost in Florida."

[fol. 2527] Without admitting, and on the contrary specifically denying, any proof in this record that—

"It is indisputable that unit costs are higher in Florida than elsewhere on the System."

these interveners respectfully assert that even if the fact were as stated by the Commission, it would not follow that the system costs so determined would necessarily be less than the cost of transporting logs in Florida.

This is the error, and the very grave error into which the Commission has fallen in the use of this, its own cost study, substituted by it apparently for the defective cost studies submitted herein by the defendant. When all is said and done the final result achieved by the Commission is a system average cost of all traffic; this figure, these interveners emphatically deny is in any way repre-

sentative of the cost of transporting the average car of logs in Florida the average distance of 81.30 miles.

Traffic on the Atlantic Coast Line in Florida consists to the extent of about 25 per cent of the total of fresh fruit and vegetable shipments, the transportation of which is very costly. The details of the circumstances and conditions surrounding such transportation and which make it so costly, were set forth by witnesses for this defendant in other proceedings, which testimony has now been made a part of the record herein, and is discussed at length in our original brief at pp. 62 et seq. But it should be further observed that practically every shipment accorded transportation within the State of Florida, fruits, vegetables, or anything else, involves one or more terminal handlings. (See supplemental testimony of witness McCaig, p. 1268.)

Under these circumstances these interveners respectfully submit that even if transportation costs in Florida are [fol. 2528] higher than transportation costs on the system as a whole (which we specifically do not admit) it does not follow that the unit cost of transporting logs in Florida is equal to the unit cost of transporting all traffic on the entire system. Therefore the substitute cost study which the Commission presents in its Appendix E to this report "cannot be accepted as indicating the averege out-of-pocket cost to defendant of transporting logs in Florida," (see sheet 39), and the Commission has erred in assuming that the Appendix E costs may be so accepted.

X

The Commission's utilization and reliance upon its own cost study, Appendix E, without submitting the same in evidence and affording to these interveners an opportunity to cross-examine the author thereof, and to offer evidence in rebuttal thereof, has deprived these interveners of the full and fair hearing to which they are entitled by the Act.

XI

The Commission has erred in its final conclusion that—

"The traffic moving under the Cummer scale does not pay its fair, proportionate share of operation and maintenance alone." (Sheet 46.)

By way of supporting this conclusion the Commission first points out that the test is (sheet 46) —

"* * * whether the traffic moving on that scale pays a fair proportionate share of the cost of maintaining defendant, or whether it causes an undue revenue burden upon the interstate traffic of defendant."

[fol. 2529] Then, to demonstrate that the record answers the latter query in the affirmative the Commission recites and relies upon —

1. The low system earnings of the defendant.
2. The low earnings on its log traffic as compared with its earnings on other low-grade commodities.
3. The much lower earnings on its Florida log traffic than on its interstate log traffic.
4. The much lower level of the Cummer scale than of other scales applicable interstate and intrastate throughout the south.
5. The evidence of transportation costs.

As to item 1 these interveners respectfully point out that that is solely a matter of system revenue return, and therefore refer to the discussion in paragraph III hereof. We repeat that—

"The mere fact that the rate of return of the carrier's system net railway operating income declined from 6.11 per cent in 1926 to 2.37 per cent in 1930 (sheet 14) constitutes no reason why rates on logs for hauls up to 170 miles in the State of Florida should be increased, and this is so regardless of whether or not such decline in the rate of return might justify a general adjustment of the carrier's entire rate structure.

The accuracy of the foregoing statement has long been recognized by both the Commission and the Courts, which have said that while the net operating profit accruing to a carrier from its whole rate structure is relevant evidence in determining whether the sum of the rates as a whole is fair to the carrier, the return to the carrier from its whole rate structure affords no light on the reasonableness of a [fol. 2530] particular rate. See Minneapolis & St. L. R. Co. v. Minnesota ex rel. Railroad & W. Com., 186 U. S. 257

at 265, 266; Dayton-Goose Creek R. Co. v. United States, 263 U. S. 456 at 480-481; Midcontinent Oil Rates, 1925, 139 I. C. C. 605, at 616; Dutton Lumber Corp. v. New York, N. H. & H. R. Co., 151 I. C. C. 391, 406.

To put it in the language of Commissioner McManamy in the Midcontinent Oil case, p. 616, where the Commission was "fully mindful of the revenue needs of these various carriers—

"* * * as we have frequently said, lack of adequate revenue from operations as a whole affords no justification for unlawful rates on individual commodities."

Items 2, 3, and 4, are solely a matter of rate comparisons—of "the relation of rates to each other," as the Supreme Court puts it in this very case. We therefore refer to the discussion of paragraph II hereof, and we reiterate that, as the Commission has expressly disavowed herein (sheet 50) any finding "in reference to undue prejudice against persons and localities in interstate commerce," it has no lawful authority to base such findings and conclusions as it has made, upon rate comparisons. Florida v. United States, supra, at p. 214.

Also, it is to be noted the Supreme Court has, in this very proceeding, condemned this sort of evidence as the basis for such findings, as the Commission has now made, and for such an order prescribing intrastate rates, as it has now entered. "The mere existence of a disparity between particular rates on intrastate and interstate traffic does not warrant the Commission in prescribing intrastate rates." Florida v. United States, supra, p. 212.

[fol. 2531] There remains item 5. This is solely a matter of transportation cost studies, and these interveners therefore refer to paragraphs VII, VIII, and IX hereof.

As shown in Paragraph VII, the defendant's general cost studies are mere system averages, recognized by the Commission as of the class said by the Supreme Court to be of no probative value in the determination of the issue herein. As shown in paragraph VIII, the defendant's specific Hines to Palatka cost study has, since its introduction before this Commission through a witness who disclaimed responsibility for or knowledge of its details (Tr. 1540-1541), been demonstrated to be inflated and otherwise defective by other witnesses for this defendant in another

(the restitution) proceeding in the United States District Court. As shown in paragraph IX, the Commission's own general cost study, Exhibit E, is another mere system average of the character condemned by the Commission itself in this report (sheet 39). Moreover, it is highly involved; it was apparently prepared, in part at least, from non-record sources of evidence, subsequent to the submission of the proceeding to the Commission; it was never submitted to these interveners for examination; and these interveners were never afforded any opportunity to cross-examine its author. These interveners have thus been denied a full and fair hearing.

Accordingly the report lacks the findings and the record lacks the basis for the findings, necessary to support this conclusion of the Commission that—

"the traffic moving under the Cummer scale does not pay its 'fair proportionate share' of operation and maintenance alone" (sheet 46).

[fol. 2532] XII

The Commission has erred in the conclusion that (sheet 48)—

"Accordingly, on the basis of an average of 7,431 cars a year under normal economic conditions, which basis we believe conservative, the gross revenues under the rates prescribed by the previous order herein would be more than $100,000.00 a year greater than under the Cummer scale, now in effect. The application of the Cummer scale, therefore, places a substantial burden upon defendant's interstate revenues."

Right at the outset it is to be observed that this is a finding of results upon gross revenue; there is no finding of results upon net revenue; "the question is that of the relation of rates to income," says the Supreme Court in this case, Florida v. United States, supra, at p. 214. Nowhere does the report purport to find the extent of any burden upon interstate commerce.

We have already pointed out what seems to us to be conclusive reasons why the Commission should reverse its findings of fact as to both the future movement of logs and the effect on the net revenues of the Atlantic Coast Line.

However, even though the Commission's findings as to these facts be accepted as correct (and their correctness we most emphatically do not admit) yet such findings do not constitute a justification for its invasion of the domain of state power in the prescribing of Florida intrastate log rates.

It will be observed that even under the Commission's calculations the gross revenues of the defendant will be reduced only $100,000.00 per year. This is based on the assumption that there will be at least the same volume of [fol. 2533] movement under the Commission's scale as has heretofore been had under the Cummer scale, although at other places in the report it is admitted that the higher scale will cause some reduction in the movement. In arriving at this figure of $100,000.00 the Commission assumes that the movement will be 7,431 cars per year although the records show that, (1) in the year February 1, 1930 to January 31, 1931, the movement, exclusive of the trainloads (which it is admitted will be discontinued) was only 3,204 cars; and, (2) in the five months from February 1 to June 30, 1931 (with the Cummer scale again in effect beginning April 10, 1931) the movement, exclusive of the trainloads, was only 934 cars (Ex. 128).

The Commission assumes therefore that the movement in future normal periods will be two and one-third times the movement in the last year that its own high rates (the same rates herein prescribed) were in effect; it also assumes that the movement in future normal years will be three and one-third times the rate of movement during February-June, 1931, during the latter half of which period the Cummer scale of rates was in effect. There is no competent evidence by qualified witnesses in this proceeding which in any way warrants such assumptions. But, accepting these extreme and unwarranted assumptions, we yet say that the difference in gross revenue of $100,000.00, which the Commission by using such assumptions finds will result, does not constitute sufficient grounds for the Commission's action herein.

In its opinion in this very case the Supreme Court said (Florida v. United States, supra, pp. 211-212)—

"The propriety of the exertion of the authority must be tested by its relation to the purpose of the grant and with suitable regard to the principle that whenever the Federal [fol. 2534] power is exerted within what would otherwise be the domain of state power, the justification of the exercise of the Federal power *must clearly appear.*" *Illinois C. R. R. v. State Pub. Utilities Commission*, 245 U. S. 493. (Italics ours.)

What is the "purpose of the grant" of this extraordinary federal power to which the Court refers in the above quotation? The Court itself states it to be, "to maintain an adequate national railway system." Florida v. United States, supra, p. 211. The Court has also said that to justify the exercise of such power by the Commission there must be—

"a real discrimination against, and obstruction to interstate commerce." Railroad Commission of Wisconsin v. C. B. & Q. Railroad, 257 U. S. 563, at 590-591.

Can it be said that a difference of $100,000.00 in gross revenue from log traffic on one railroad in Florida will constitute such an interference with the maintenance of an adequate national railway system as to make it "clearly appear" that the exercise of the Federal power within the field that would otherwise be the domain of the state, is justified?

The Commission has here fixed no general level of log rates. There is no interstate commerce in logs and the Commission makes no finding of discrimination against persons and localities. It bases its right to enter the domain of state power and impose its judgment as to the rates to be charged for the intrastate transportation of a single commodity over a single railroad solely on the ground that such action is necessary to prevent a revenue burden on interstate commerce. Yet, based on the assump- [fol. 2535] tion that intrastate traffic will be the same, and although it has ordered that the intrastate rates be doubled, the Commission finds, erroneously as we have shown, a loss in gross revenue of only $100,000.00.

We respectfully submit that the Commission's action in invading the state domain and prescribing rates for intrastate application, cannot find justification under those con-

ditions of fact, when the propriety of the exercise of the Commission's power must as a matter of law, be "tested by its relation to the purpose of the grant and with suitable regard to the principle that whenever the federal power is exerted within what would otherwise be the domain of state power, the justification of the exercise of the Federal power must clearly appear." Florida v. United States, supra, pp. 211-212.

It should be especially observed that the Commission is not here considering only a private claim of a private citizen against another private citizen. "Substantial" evidence may be sufficient basis for Commission action in such a controversy. Here, however, is a question of sovereign rights, and as between state and federal governments. In such a case, mere substantial evidence will not suffice; justification must clearly appear to an even greater and more definite extent than the Supreme Court requires in determining questions of constitutional right between the government and persons subject to its authority. Crowell v. Benson, p. 369, at — U. S. —, 76 L. Ed. (Adv. Sheets, 378-381), decided February 23, 1932; Eastern Texas R. Co. v. Railroad Commission of Texas, 242 Fed. 300, at 307-308.

XIII

The Commission has erred in its final conclusion that (sheet 48)—

[fol. 2536] "We believe that the movement of logs intrastate in Florida over defendant's lines will not be materially curtailed under the rates which we here prescribe, which are the same or substantially the same as the rates generally in effect and under which logs freely move throughout the south."

The detailed discussion of the Florida intrastate log movement, past, present, and future, is found in paragraphs V and VI hereof.

At this point we direct attention first to the language of this conclusion of the Commission. It is not the language of a finding of fact; it is a mere expression of a belief; it may fairly be said, we think, to be largely an expression of a wish which is father to a thought.

The carrier submitted two statements showing the detail of the Florida intrastate log movement; the first (Perrin

Ex. 61) covering the period of substantially two years from February 9, 1929 to January 31, 1931, during all of which time the Commission-made scale of rates was in effect; the second, (Perrin Ex. 128) covers the period from February 1, 1931 to June 30, 1931, during which period the Commission's scale remained in effect until April 10, 1931, and the Cummer scale was again in effect thereafter. In this latter exhibit (Perrin No. 128) there is no division of the movement for the periods prior and subsequent to April 10, 1931. There is, therefore, no justification for the statement in the report (sheet 47) that—

"There was no substantial increase in the movement after the Cummer scale was restored on April 10, 1931."

Next, on this same subject, the Commission indulges in opinion to the general effect (sheet 47) that—

[fol. 2537] "The depressed condition of the lumber industry * * * in our opinion has been and will be of far greater importance than the level of the Florida log rates in determining the extent of the movement in the immediate future at least."

For this expression of opinion which again, is far short of a finding of fact, the record affords no basis whatsoever.

The Commission next makes the statement that (sheet 47)—

"Under normal economic conditions it seems probable that the annual volume of the Florida log movement under rates the same as those previously prescribed will not be less than the average of this two-year period minus the number of cars included in the discontinued trainload movements."

This, again is language far short of a finding of fact. We are not dealing with normal economic conditions in these days, nor do even the best authorities venture to predict when normal economic conditions will return. Furthermore, with respect to the detailed showing of log movement by the Atlantic Coast Line, first in the two-year period ending January 31, 1931, and second, in the five-months period following, there was never offered any similar statement of such movement in the prior like period or periods when the Cummer scale of rates was in effect. There is, therefore,

no basis whatever in the record for this expression of probabilities by the Commission.

The Commission is not justified in relying, as it does, upon the Coast Line's statement of log tonnage in the five-month period, February 1, 1931 to June 30, 1931, for the very fact that the period was split into two almost equal parts by the change in the rates. Necessarily, therefore, [fol. 2538] the Commission was not only dealing with an abnormal period as it says, but it was dealing with a period when two materially different rate levels were effective. Inasmuch as Perrin Ex. 128 does not split the five-months movement according to the rate split, or at all, the exhibit is worthless as even an indication of future probabilities, especially as the greater part of the movement in the five-months period, 1,831 cars out of a total of 2,765 carloads was the Wilson Cypress Company movement from Hines to Palatka, which the Commission admits will be discontinued.

The statement, therefore, that "it seems probable" that the intrastate log movement in Florida "will not be materially curtailed" under the Commission's higher rates is contrary to the evidence and contrary to the facts.

XIV

The Commission has erred in its final conclusion (sheet 49) that—

"The intrastate rates on logs over six feet in length, except walnut, cherry, and cedar, applicable between points on the Atlantic Coast Line in Florida for distances of 170 miles and less are, and for the future will be, unjustly discriminatory against interstate commerce."

XV

The Commission has erred in its final conclusion (sheet 49) that—

"Such unjust discrimination can be and should be removed by the establishment between all points on the At- [fol. 2539] lantic Coast Line in Florida for distances of 170 miles or less, of rates not less than the rates shown for such distances in Appendix F thereto, which are the rates found reasonable for interstate application from northern Florida to Georgia."

XVI

The Commission has erred in prescribing by its order as amended the establishment of minimum rates on Florida intrastate log traffic as set forth in Appendix F; in requiring that such Florida intrastate rates be published "by filing and posting tariffs in the manner prescribed in Section 6 of the interstate commerce act"; and in assuming to order the establishment and maintenance of such rates wtihin the State of Florida without fixing a future date certain upon which such order shall become effective, as required by Section 15 (2) of the Act.

XVII

The Commission has erred in assuming that intrastate rates which produce gross revenues in excess of the actual total out of pocket cost of handling the traffic over existing and maintained lines of railroad can create a burden upon interstate commerce.

XVIII

The Commission has erred in prescribing for future application, intrastate in Florida, rates which will produce gross revenues considerably in excess of the total cost of transportation, the total proportionate share of taxes attributed to the traffic, and the full profit of 5¾ per cent allowed by law, as such cost of transportation, taxes, and return on investment are computed by the Commission [fols. 2540 & 2541] itself in its report, the rates so prescribed being extortionate.

Wherefore, petitioners pray that further hearing and reconsideration be granted in the above-entitled proceeding, and that the Commission enter such further order or orders in the premises as to it may seem reasonable and just.

Petitioners also point out that the report of the Commission herein is by the full Commission; that consideration of this petition by the full Commission may because of the season be delayed; that pending the disposition of this petition the Commission should postpone the effective date of the order herein to such future date as will permit petitioners an opportunity to assert their rights in the premises in the Courts in the event that the Commission should deny

this petition; and that, therefore, petitioners pray that the effective date of the outstanding order herein, be extended to November 15, 1932.

Respectfully submitted, Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company, Wilson Lumber Company of Florida, by H. P. Adair, C. [illegible] Ashby, C. E. Cotterill, August G. Gutheim, J. V. Norman, Attorneys. 712 Jackson Place, Washington, D. C.

August 17, 1932.

[fol. 2542] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted].

PETITION ON BEHALF OF THE STATE OF FLORIDA AND THE FLORIDA RAILROAD COMMISSION FOR FURTHER HEARING IN, AND RECONSIDERATION OF, THE ABOVE-ENTITLED PROCEEDINGS—Aug. 23, 1932

Come now the State of Florida and the Florida Railroad Commission and respectfully petition the Interstate Commerce Commission to grant a further hearing in and reconsideration of the above-entitled proceeding; and in support of said petition respectfully show:

1

That the findings declared by the Supreme Court of the United States to be essential herein to the entry of the order of the Commission herein entered affecting Florida [fol. 2543] intrastate rates were not made and cannot be made by the Commission upon the evidence before it, and the Commission erred in making such order in the absence of such findings.

2

The Commission erred in invading the domain of the State of Florida upon the record which the Commission had before it.

3

The basic essential and jurisdictional facts to justify the invasion of the domain of the State of Florida have

not been made to clearly appear in the report or findings of the Commission.

4

The basic essential and jurisdictional facts to justify the invasion of the domain of the State of Florida have not been made to clearly appear in the evidence.

5

The alleged findings of fact upon which the Commission relies to justify its order prescribing intrastate rates are not warranted and/or made to clearly appear by the evidence.

6

That the Commission has erred in entering its statewide order affecting Florida intrastate rates on logs herein in that it does not appear that there are findings supported by evidence of the essential facts as to the Florida intrastate traffic in logs and the revenue therefrom, and the effect of the intrastate rates, both as existing and prescribed, upon the income of the defendant carrier, which would justify the conclusion that the order is needed to avoid an undue burden on the revenues of the carrier and [fol. 2544] a consequent interference with the maintenance of an adequate transportation system.

7

That the Commission made no finding of the amount of revenue which had been derived in the past by the defendant carrier from the particular traffic in question under the existing intrastate rates, and erred in entering the order which it did enter in the absence of such finding.

8

It does not clearly appear that the evidence would warrant a finding of the amount of revenue which had been derived in the past by the defendant carrier from the particular tariff in question under the existing intrastate rate, and the Commission erred in making the order which it did make under the circumstances.

9

That the Commission made no finding of the amount of revenue which can reasonably be expected to be derived

from the traffic in question under the increased intrastate rate which the Commission proposes to establish, and the Commission erred in entering the order which it did enter in the absence of such finding.

10

It does not clearly appear that the evidence would warrant a finding of the amount of revenue which can reasonably be expected to be derived from the traffic in question under the increased intrastate rate which the Commission proposes to establish, and the Commission erred in making [fol. 2545] the order which it did make under the circumstances.

11

That the Commission made no finding that the application of the existing intrastate rate results in an impairment of the income of the carrier, which causes an undue burden upon the carrier's interstate revenues and obstructs the maintenance of an adequate national transportation service, and the Commission erred in entering the order which it did enter in the absence of such finding.

12

It does not clearly appear that the evidence would warrant a finding that the application of the existing intrastate rate results in an impairment of the income of the carrier, which causes an undue burden upon the carrier's interstate revenues and obstructs the maintenance of an adequate national transportation service, and the Commission erred in making the order which it did make under the circumstances.

13

That the Commission made no finding that an undue burden upon the carrier's interstate revenues and obstruction to the maintenance of an adequate national transportation service exists which is of such character and consequence that it is the affirmative duty of the Commission as an important step in maintaining an adequate national railway system to remove such burden and obstruction, and the Commission erred in entering the order which it did enter in the absence of such finding.

14

It does not clearly appear that the evidence would war-
[fol. 2546] rant a finding that any undue burden upon the carrier's interstate revenues and obstruction to the maintenance of an adequate national transportation service exists, which is of such character and consequence that it is the affirmative duty of the Commission as an important step in maintaining an adequate national railway system, to remove such burden and obstruction, and the Commission erred in making the order which it did make under the circumstances.

15

The Commission made no finding that the alteration of the intrastate rates will produce, or is likely to produce, an additional and greater amount of income, and made no finding that such additional and greater amount of income is necessary to prevent an existing undue burden upon the defendant carrier's interstate revenues and necessary to maintain an adequate transportation service, and the Commission erred in entering the order which it did enter in the absence of such finding.

16

It does not clearly appear that the evidence would warrant a finding that the alteration of the intrastate rates will produce, or is likely to produce, an additional and greater amount of icome, and it does not clearly appear that the evidence would warrant a finding that such additional and greater amount of income is necessary to prevent an existing undue burden upon the defendant carrier's intrastate revenues and necessary to maintain an adequate transportation service, nd the Commission erred in making the order which it did make under the circumstances.

[fol. 2547] 17

The Commission made no finding of the quantity or extent of any burden upon the intrastate revenues of the defendant carrier caused by the application of the existing Florida intrastate rate.

18

It does not clearly appear that the evidence would warrant a finding of the quantity or extent of any burden upon

the interstate revenues of the defendant carrier caused by the application of the existing Florida intrastate rate.

19

The Commission erred in denying the motion to dismiss the complaint for the reason that no complaint was made and no evidence offered by the complainant of a revenue burden upon interstate commerce.

20

The Commission erred in refusing to require the defendant carrier to furnish the information showing the revenue of the defendant carrier for the years 1927 and 1928 derived from the application of the Florida intrastate rate in effect during said two years.

21

The Commission erred in considering or giving any effect whatsoever to any rate comparisons.

22

The Commission erred in considering or giving any effect whatsoever to any statements of system revenue [fol. 2548] returns, or of the relation of log traffic and log revenue to total traffic and total revenue.

23

The Commission erred in considering or giving any effect whatsoever to any cost studies produced in this proceeding by any of the parties or by the Commission itself.

24

The Commission, by giving effect to its own cost study, Appendix E, which has been formulated from matter dehors the record, without submitting the same in evidence and without affording an opportunity to cross-examine the author thereof and to offer evidence in rebuttal thereof, has deprived the State of Florida and its Railroad Commission of the full and fair hearing to which they are entitled by the Act, and the Commission has erred in so doing.

25

The Commission erred in entering its order herein affecting Florida intrastate rates in that the Commission did not, prior to the entering of such order, require the Atlantic Coast Line Railroad to first apply to the Florida Railroad Commission for alteration of the Florida intrastate rates.

26

The Commission erred in entering its order herein affecting Florida intrastate rates without the justification of the exercise of the Commission's power clearly appearing.

27

The Commisison erred in entering its order herein affecting Florida intrastate rates, in that the same constitutes an [fol. 2549] unwarranted and unjustifiable invasion of the domain and rights of the State of Florida.

Wherefore, these petitioners pray that further hearing and reconsideration be granted in the above-entitled proceeding, and that the Commission enter such further order or orders in the premises as to it may seem reasonable and just.

Respectfullly submitted, Cary D. Landis, Attorney General of Florida. T. T. Turnbull, Counsel for Florida Railroad Commission.

Tallahassee, Fla., August 23, 1932.

[fol. 2550] BEFORE INTERSTATE COMMERCE COMMISSION

No. 18364

[Title omitted]

ORDER DENYING PETITIONS—Aug. 25, 1932

Upon consideration of petitions of interveners Brooks-Scanlon Corporation, Wilson Cypress Company, Cummer Cypress Company, and Wilson Lumber Company, and of the State of Florida and the Florida Railroad Commission for further hearing and reconsideration of the above-entitled proceeding:

It is ordered, That said petitions be, and they are hereby, denied.

By the Commission.

George B. McGinty, Secretary. (Seal.)

[fols. 2551 & 2552] INTERSTATE COMMERCE COMMISSION
WASHINGTON

Feb. 24, 1933.

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of the following:

Petition on Behalf of Wilson Cypress Company and Wilson Lumber Company of Florida, for Further Hearing, and Reconsideration, on the Ground of Newly Discovered Evidence, filed October 6, 1932,

Reply of Defendant, Atlantic Coast Line Railroad Company, to Petition of Wilson Cypress Company and Wilson Lumber Company of Florida for Further Hearing Upon the Ground of Newly Discovered Evidence, filed October 11, 1932,

Motion To Set Aside the Final Order of the Interstate Commerce Commission and For Further Hearing and Reconsideration, filed October 11, 1932,

Petition of Intervention and Petition For Further Hearing, filed October 10, 1932, and

Reply of Defendant, Atlantic Coast Line Railroad Company, to Petition of State of Florida and Florida Railroad Commission for Further Hearing and Petitions of F. S. Buffam Company Inc., for Leave to Intervene and For Further Hearing, filed October 18, 1932,

in case No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 21st day of October, A. D. 1932. George B. McGinty, Secretary of the Interstate Commerce Commission. (Seal Interstate Commerce Commission.)

[fol. 2553] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted]

PETITION ON BEHALF OF WILSON CYPRESS COMPANY AND WILSON LUMBER COMPANY OF FLORIDA FOR FURTHER HEARING IN, AND RECONSIDERATION OF, THE ABOVE-ENTITLED PROCEEDING, ON THE GROUND OF NEWLY DISCOVERED EVIDENCE —Oct. 5, 1932

Come now Wilson Cypress Company and Wilson Lumber Company of Florida, interveners herein, referred to in the report of this Commission as "the Florida interveners", and respectfully petition the Commission to grant a further hearing in, and reconsideration of, the above-entitled proceeding; and in support of said petition respectfully show:

I. That by its report and final order in this proceeding the Commission prescribed minimum rates per one hundred pounds on Florida intrastate log traffic, minimum carload [fol. 2554] weight 40,000 pounds, as follows:

Distances	Rates, cents
10 miles and under	2.5
20 miles and over 10	3.0
30 miles and over 20	3.5
40 miles and over 30	4.0
55 miles and over 40	4.5
70 miles and over 55	5.0
85 miles and over 70	5.5
100 miles and over 85	6.0
120 miles and over 100	6.5
140 miles and over 120	7.0
160 miles and over 140	7.5
170 miles and over 160	8.0

II. That said Florida intrastate log rates were prescribed by the Commission to remove an "unjust discrimination against interstate commerce from a revenue standpoint;" and for no other reason (Georgia Pub. Serv. Comm. v. Atlantic Coast L. R. Co., 186 I. C. C. 157, 190); and that in reaching its conclusions and in prescribing said rates the Commission relied upon and gave consideration to certain comparisons of the presently effective Florida intrastate log rates (the so-called Cummer scale), with other scales of rates effective in southeastern territory (Georgia Pub. Serv. Comm. v. Atlantic Coast L. R. Co., supra, pp. 193-194):

III. That there have lately (and since the closing of the hearings in this proceeding and the filing of these interveners' petitions for rehearing and reconsideration) been filed with this Commission and permitted to become effective, certain reduced rates applicable to the transportation of logs in southeastern territory; that such rates are published as rates per carload, regardless of weight, in tariffs, of various carriers, including those listed below; and that such rates are generally upon the following basis:

[fol. 2555]

Distance	Rate per car regardless of weight
25 miles and less	$12.00 (note 1)
50 miles and over 25 miles	15.00
75 miles and over 50 miles	17.50
100 miles and over 75 miles	20.00 (note 2)

NOTE 1.—Sou. Ry. rate is $12.50 per car.

NOTE 2.—St. L.-S. F. Ry. rate is $22.50 per car.

Authorities for Rates

Railroad tariff No.	I. C. C. tariff No.	Issued by	Application
10956	B-860	M. & O. R. R.	From stations on the M. & O. R.R. to Columbus, Corinth, Miss., Humboldt, Jackson, Tenn., Meridian, Miss., Mobile, Ala., Wickliffe, Ky., and Whistler, Ala.
590-R	7786	I. C. R. R.	From stations on the I. C. R. R. to Corinth, Miss., Dyersburg, Tenn., Fernwood, Grenada, Jackson, Miss., Jackson, Tenn., McComb, Pickens, Miss., Ponchatula, La., Water Valley, Miss.
602-M	7810	Y. & M. V. R. R.	From stations on the Y. & M. V. R. R. to Charleston, Clarksdale, Miss., Denham Springs, La., Gloster, Greenville, Greenwood, Grenada, Hickory, Holcomb, Jackson, Kings, Lambert, Meridian, Natchez, Phillip, Stevenson, Tehula, Trotters Point, Vicksburg and Yazoo City, Miss.
3	3284-A	N. C. & St. L. Ry.	Applies on interstate traffic between points on the N. C. & St. L. Ry.
6	Rate Issue 41296	N. C. & St. L. Ry.	Applies on Tennessee State Traffic between points on the N. C. & St. L. Ry.
6	A-10425	Sou. Ry.	From points in Alabama, Georgia, and Tennessee to Chattanooga, Tenn.
3155-F	9019	St. L.-S. F. Ry.	Between stations on the St. L.-S. F. Ry. in Alabama, Florida and Mississippi.

[fol. 2556] IV. That the said reduced rates are applicable upon the lines of the carriers located in the same territorial rate group as is the Atlantic Coast Line Railroad, i. e., the Southern group, and in the territory where the transportation conditions surrounding the movement of logs have been declared by witnesses herein for the Atlantic Coast Line Railroad Company to be substantially identical with the transportation conditions in Florida; that said rates are in fact applicable in certain portions of Florida over the lines of other carriers than the Atlantic Coast Line Railroad; and that there is now a substantial movement of logs by truck in Florida.

V. That your petitioners are informed and believe, and on such information and belief aver, that similar reduced rates, applicable to the transportation of logs in southwestern territory, have recently been published and filed with this Commission and permitted to become effective.

IV. That the record herein shows that the average car loading of logs intrastate in Florida exceeds 56,000 pounds, and that the average car loading of logs handled in trainloads intrastate in Florida is approximately 64,000 pounds. And that these petitioners aver that it is the custom of shippers of traffic, particularly logs, in shipping upon rates named per car regardless of weight, to load to the full carrying capacity of the car; and that the loading of logs of all kind, including hardwood in the southeastern territory and in Florida, upon cars moved at rates per car regardless of weight, would approximate or exceed 70,000 pounds to 75,000 pounds per car.

[fol. 2557] VII. That the table below compares for the hauls therein specified the rates, per car of the weight mentioned, for the transportation of logs upon the Cummer scale intrastate in Florida, also upon the recently published rates named per car regardless of weight as aforesaid, based upon the loading thereof reasonably to be expected, and also upon the scale of minimum rates prescribed by this Commission as aforesaid, intrastate in Florida:

Computed on Carload of 70,000 Pounds

Hauls in miles	Cummer scale	New scale in southeast	Scale fixed by Commission
25 miles	$11.97	$12.00	$24.50
50 miles	14.70	15.00	31.50
75 miles	16.10	17.50	38.50
100 miles	18.20	20.00	42.00

Computed on Carload of 75,000 Pounds

25 miles	$12.82	$12.00	$26.25
50 miles	15.75	15.00	33.75
75 miles	17.25	17.50	41.25
100 miles	19.50	20.00	45.00

VIII. That the foregoing comparison demonstrates that the Cummer scale of rates on logs intrastate in Florida is upon almost exactly the same level as are the recently published rates named to apply on car loads of logs regardless of weight in southeastern territory; that measured by such recently published carload rates the scale prescribed by the Interstate Commerce Commission for intrastate application in Florida is unjustly and unreasonably high and extortionate; and that such presently effective rates on logs in the southeast do not justify the Commission in its proposed disestablishment of the Cummer scale of rates intrastate in Florida and the substitution therefor of the mini-[fol. 2558] mum rates prescribed in Georgia Pub. Serv. Comm. v. Atlantic Coast L. R. Co., supra, p. 198.

IX. That your petitioners have only within the past ten days learned of the publication and effectiveness without suspension by this Commission, of the carload rates on logs effective in southeastern and southwestern territory, as referred to above; that the same are in the nature of newly discovered evidence; that the same have been substituted in large part for the rates relied upon by the Commission for comparative purposes in this proceeding; and that the Commission should have the benefit of further comparisons of the Cummer scale of rates on logs intrastate in Florida and these and other recently published carload rates on logs before it in the final determination of the issues herein.

X. That as appears from the foregoing table, 75,000 pounds of logs may be hauled in one carload 100 miles interstate under rates which this Commission has permitted to become effective at considerably less cost to the shipper

than the same car of logs may be hauled 25 miles under the minimum rates fixed by this Commission for intrastate application in Florida; that such difference constitutes an unjust and indefensible discrimination by interstate commerce against intrastate commerce; and that since such discrimination is created by interstate rates permitted to become effective by this Commission and intrastate rates ordered to become effective by this Commission, the removal of such discrimination can be brought about only by action of this Commission.

[fol. 2559] XI. That the Florida intrastate rates above set forth have been prescribed by this Commission on the sole ground that such rates are necessary to remove a revenue burden on interstate commerce, and in order that such intrastate rates might pay their fair proportionate share towards the maintenance of an adequate national transportation system; that for this Commission to invade the domain of the State and prescribe intrastate rates to remove a burden upon interstate commerce while permitting the application of such lower rates upon interstate commerce constitutes an unwarranted exercise of Federal power to the preference of interstate commerce and to the unjust and undue prejudice of intrastate commerce; and that so long as the Commission's order in this proceeding remains in force and effect the State authorities to whom primary jurisdiction over intrastate rates is committed are powerless to remove the discrimination above described against intrastate commerce.

XII. That the report and order of this Commission herein in prescribing intrastate rates in Florida relate to and are based upon a past period of time, and relate to and are based upon conditions and circumstances all of which are far different from those existing at present, and form no proper basis for any finding or conclusion as to the amount of revenue which the carrier can now reasonably be expected to derive under the Florida intrastate rates so prescribed, and the findings actually made are themselves expressly inapplicable to present circumstances and conditions and are improper findings of fact upon which to support said order.

[fol. 2560] XIII. That the matters and things set forth in the report of this Commission including the findings therein

contained are matters and things alleged to have been existing and true in the year 1929 and thereabouts and form no proper predicate as regards the present, or the future, for the making of the findings, or any of them, which the Supreme Court has said are necessary to justify this Commission's order herein, and such findings as are made are not the findings which the Supreme Court has said are necessary.

XIV. And these petitioners hereby re-assert and reaffirm each and every of the matters and things heretofore asserted and affirmed in the several petitions for rehearing and reconsideration heretofore filed herein by these petitioners.

Wherefore, your petitioners respectfully pray that these proceedings be reopened for further hearing and consideration; that pending such further hearing and consideration the outstanding order herein prescribing rates to be applied for the transportation of logs intrastate in Florida be set aside, or that the effective date thereof be postponed; that the Commission enter such further order or orders as will remove or permit the State authorities of the State of Florida to remove the unjust discrimination in favor of interstate commerce and the unjust prejudice to intrastate commerce resulting from the aforesaid order of this Commission; and that the Commission enter such further order [fol. 2561] or orders in the premises as may be reasonable and just.

Respectfully submitted, Wilson Cypress Company, Wilson Lumber Company of Florida, by J. V. Norman, August G. Gutheim, Chas. E. Cotterill, H. P. Adair, C. G. Ashby, Attorneys.

Washington, D. C., October 5, 1932.

[fol. 2562] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted]

REPLY OF DEFENDANT, ATLANTIC COAST LINE RAILROAD COMPANY, TO PETITION OF WILSON CYPRESS COMPANY AND WILSON LUMBER COMPANY OF FLORIDA FOR FURTHER HEARING UPON THE GROUND OF NEWLY DISCOVERED EVIDENCE

Come now the Atlantic Coast Line Railroad Company, defendant, and for reply to the petition of Wilson Cypress Company and Wilson Lumber Company of Florida, dated October 5, 1932, for further hearing on the ground of newly discovered evidence, respectfully states:

1

In said petition it is stated (p. 2) that in reaching its conclusions the Commission relied upon and gave consideration to certain comparisons of the so-called Cummer scale of log rates in Florida "with other scales of rates effective in southeastern territory." It may be conceded that in its consideration of this proceeding the Commission—as one method (although by no means the only one) by which to test the reasonableness or unreasonableness of the Cummer scale—made reference to various comparisons [fol. 2563] between the level of this scale of log rates, on the one hand, and on the other the log rates of this defendant as well as other carriers applicable in various other portions of southern territory. It should be kept in mind, however, that in all of the comparisons of this sort which the defendant submitted at the hearing no log rates were used other than rates which had been either approved or prescribed by this Commission for interstate application, or had been approved or prescribed by the several state commissions for intrastate application. Every scale that was used in those comparisons with the Cummer scale had the approval of regulatory bodies, either interstate or intrastate, as representing just and reasonable maximum rates on logs. Furthermore, the comparisons which were drawn were comparisons between the local log rates under the Cummer scale and the local log rates of various southern lines, which latter are generally still in effect, the only

exceptions being certain experimental truck competitive rates on lines in the Mississippi Valley, hereinafter referred to.

2

The only "newly discovered evidence" which is set forth and relied upon in the petition consists of the reference, on page 3, to certain rates on logs which are said to have been published by various individual carriers since the time when this case was heard and decided by the Commission. It will be noted that none of the tariffs referred to in the petition are tariffs of this defendant, Atlantic Coast Line Railroad Company. On the contrary, they consist entirely of several tariffs which have been issued by certain other carriers. They are likewise tariffs having in most in- [fol. 2564] stances a strictly limited territorial application, covering principally certain movements in Mississippi Valley territory for hauls no greater than 100 miles, and being generally limited expressly as to origins and destinations. And what the petition fails to mention is (as will be disclosed by an examination of these tariffs) that the rates are published for temporary application only, the tariffs themselves carrying very generally an expiration date of one year from the date of issue. Furthermore the tariffs of the Mobile & Ohio Railroad, Illinois Central Railroad, Yazoo & Mississippi Valley Railroad and St. Louis-San Francisco Railway are in each instance transit tariffs, and the rates shown are net transit rates as distinguished from local rates, which means that they fail to represent the entire revenue which the issuing road will obtain from the traffic, since the rates are to apply only in the event that the product of the logs is reshipped from transit point via the line carrying the logs into the transit point.

The rates mentioned in the petition are, in a word, nothing more or less than certain truck competitive rates which have been issued as an experimental measure and for the purpose of meeting motor truck competition. They were in no sense issued as representing reasonable maximum rates. They have been made, on the contrary, in an effort to substitute rail transportation for motor truck transportation at rates no higher than those charged by motor trucks or no higher than the expense of transporting the logs by shippers on their own trucks. These rates were not made because of the existence of standing timber

that would ordinarily be cut and shipped by rail in large volume, as is the case in Florida. This defendant has been urged on various occasions to establish similar rates be-
[fol. 2565] tween points on its lines to cover such single car movements of logs as lumber mills might be able to purchase from farmers, but has consistently declined to do so. To say, therefore, that competitive rates of this sort should be considered and used by the Commission as a standard or test by which to measure the level of reasonable maximum rates is simply to ignore and cast out of view every recognized and accepted principle of rate making. The law is well settled that under the exigencies of the force of competition carriers frequently establish voluntarily rates which the Commission could not require them by its order to establish (Interstate Commerce Commission v. Chicago Great Western R. Co., 209 U. S. 108). It follows, therefore, that even if the case should be reopened, as prayed in this petition, and even if the rates therein referred to should now be placed in evidence and made a part of the record, such rates would be valueless as bearing upon the reasonableness of either this defendant's intrastate log rates in Florida or its interstate log rates as applicable generally over its lines. It is difficult indeed to understand how the existence of certain truck competitive rates of lines in the Mississippi Valley, issued as experimental rates, can be considered as newly discovered evidence that would be of any value in determining what would constitute a reasonable scale of log rates on the Atlantic Coast Line in Florida. The reasonableness of these temporary rates in the Mississippi Valley, unlike the rates which are already before the Commission in this record for the purpose of comparison, has never been considered or tested by the Commission.

[fol. 2566] 3

It is said in the petition (p. 4) that the reduced rates above mentioned are applicable in territory "where the transportation conditions surrounding the movement of logs have been declared by witnesses herein for the Atlantic Coast Line Railroad Company to be substantially identical with the transportation conditions in Florida." This statement in the petition is the exact reverse of the testimony of defendant's witnesses in this record. The testi-

many of those witnesses was that the transportation conditions surrounding the movement of logs in Florida are less favorable than those in other portions of southern territory, and that there is a need for higher rates on this traffic within the state of Florida than in other sections of the south. In the report of July 5, 1932, 186 I. C. C. at page 189, the Commission stated:

"We find that the circumstances and conditions surrounding the transportation of these logs intrastate in Florida are not on the whole as favorable as the circumstances and conditions surrounding the interstate movement of logs over defendant's lines."

The petition further states that "there is now a substantial movement of logs by truck in Florida" (p. 4). The purpose of this statement is not apparent, unless the intention of the petitioners is to convey the idea that the Commission should order the establishment of lower rates on logs in Florida in order to enable the defendant to meet the competition of an alleged movement of logs by truck. In the report of July 5, 1932, the Commission stated, among other things, that:

"In the Florida log transportation some competition from trucks is met but only to a very slight degree. It is not shown that logs can or will be transported by trucks [fol. 2567] except for very short distances, nor that truck competition was or will be increased under advanced rates."

The foregoing finding of the Commission was grounded upon adequate and complete evidence of record, and there is nothing in the petition which indicates that this finding is in any respect erroneous. But regardless of whether there is or is not a substantial movement of logs by truck in Florida, or of whether certain railroads in other parts of the country have elected to reduce rates for the purpose of meeting truck competition, there can be no support for any contention that the Commission, in the exercise of its power to determine reasonable maximum rates, should undertake to compel a carrier to seek to meet such truck competition through the medium of a reduction in rates.

In furtherance of the effort to compare the Cummer scale of log rates in Florida with the competitive rates which certain other roads have established, there are computed in the petition, on pages 4 and 5, various comparisons of what purport to be the car earnings under the Cummer scale; the scale ordered by the Commission; and the so-called "new scale in the southeast". Reference is further made to "the recently published rates named to apply on car loads of logs regardless of weight in southeastern territory." The purpose seems to be to create the impression that some new and reduced level of log rates has now been established and made effective generally throughout southeastern territory. As we have pointed out above, the only new rates that are even mentioned in the petition for rehearing are rates of a few individual carriers which are applicable principally in Mississippi Valley territory and [fol. 2568] between certain limited origins and destinations, and which are likewise merely temporary rates, are restricted to apply for relatively short distances only, and are in most instances not even local rates, but on the contrary transit rates—all of such rates, even of the character mentioned, having been established solely in an effort to meet truck competition. In addition, it may be noted that the comparisons drawn in the petition are grounded upon a thoroughly unwarranted assumption of the petitioners concerning per car loadings. The statement that "the loading of logs of all kinds, including hardwood in the southeastern territory and in Florida, upon cars moved at rates per car regardless of weight, would approximate or exceed 70,000 pounds to 75,000 pounds per car" (petition, p. 4) can only find its basis in the imagination of the petitioners. Certainly it is unsupported by any evidence in this record. Moreover, it can find no substantiation in actual experience in the shipment of logs under rates applicable per car regardless of weight. On the contrary this record does show that cars built especially for the handling of logs in train loads, and capable of loading far in excess of the carrying capacity of flat cars that are ordinarily used in the handling of logs, were loaded on the average no more than 62,325 pounds per car notwithstanding the fact that log loading skidders of the most improved type have been used. It is plainly apparent that the compari-

sons of per car revenues, as set forth in the petition, are of no real value in any event because the per car earnings are computed upon the basis of theoretical and greatly inflated weights.

[fol. 2569] 5

This defendant expressly denies the allegation (par. IX, p. 6 of petition) that the recently published log rates to which reference is made "have been substituted in large part for the rates relied upon by the Commission for comparative purposes in this proceeding"; and the further allegation that "the Commission should have the benefit of further comparisons of the Cummer scale of rates on logs intrastate in Florida and these and other recently published carload rates on logs before it in the final determination of the issues herein." As pointed out above, there have been no changes or reductions in the interstate rates of the Atlantic Coast Line Railroad Company. Neither have there been any changes or reductions in the interstate log rates generally applicable throughout southern territory. It was such rates—most if not all of which had theretofore been definitely prescribed or approved as reasonable by either this Commission or the various state commissions—which the Commission very appropriately referred to and used in this case for purposes of comparison with the rates in issue. It may be mentioned, in passing, that in their former petition for rehearing, dated August 17, 1932, the present petitioners, together with the Brooks-Scanlon Corporation and the Cummer Cypress Company, joined in urging, among other things, as a ground for further hearing and reconsideration, that "the Commission erred in reciting and giving consideration to * * * *rate comparisons offered to prove that the rates in the Cummer scale are abnormally low*" (petition of August 17, [fol. 2570] p. 3). Nevertheless, in this new petition for rehearing the same petitioners now set up as constituting "newly discovered evidence", upon which it is claimed that the Commission should reopen and reconsider the case, certain rates which they would themselves have the Commission use for purposes of comparison and as purporting to show that the prescribed scale for intrastate application in Florida "is unjustly and unreasonably high and extortionate."

6

In paragraphs X and XI (pp. 6 and 7 of petition) the theory appears to be advanced that the Commission should reopen the case and modify its former order because of an alleged "unjust and indefensible discrimination by interstate commerce against intrastate commerce" growing out of the publication by certain carriers of the log rates mentioned at page 3 of the petition. In this connection also the comparison is again drawn in the petition upon the basis of purely theoretical and imaginary car loadings. But aside from that circumstance, it becomes difficult indeed to conceive that merely because certain competitive log rates may have been published for limited application by carriers operating in the Mississippi Valley (none of such rates having been either published or concurred in by this defendant) the conclusion must be reached that there is thereby created a discrimination against intrastate commerce of which the removal constitutes a duty resting upon this Commission.

[fol. 2571] 7

With respect to the suggestion (par. XII of petition) that the conditions which existed at the time when this case was heard and decided by the Commission are "far different" from those existing at present, it seems sufficient to observe that the petition itself does not even purport to set forth any change in conditions other than the publication of certain competitive log rates by the carriers above referred to. By what process of reasoning the petitioners reach the conclusion that present conditions warrant lower log rates in Florida than those which the Commission has heretofore prescribed in this case it is impossible to understand, unless it is the petitioners' intention to urge that the Commission should lay aside all attempts to determine just and reasonable rates and should base its conclusions upon that subject entirely upon the unregulated competition of motor trucks. Certainly it is true that the revenue needs of this defendant and other carriers are now even greater than they have ever been heretofore.

This case was decided by the Commission upon a most complete and adequate record and after hearings at which every opportunity was made available to all interested

parties to insure the presentation of all of the relevant and material facts. Following the issuance of the Commission's report and order, petitions for rehearing were filed by the intervening Florida log shippers, as well as by the Railroad Commission of Florida, which petitions were considered by the Commission and denied by order of August [fols. 2572 & 2573] 25, 1932. Thereupon these petitioners joined in instituting a suit in the United States District Court in Georgia to enjoin and set aside the Commission's order, a hearing has been had, and the matter is now pending, the Court having fixed October 13, 1932, as the date for filing briefs. It is respectfully submitted that this latest petition for rehearing discloses no reasons whatever for a reopening and rehearing of the case by the Commission, and accordingly that said petition should be denied.

Respectfully submitted, Robert C. Alston, Carl H. Davis, Frank W. Gwathmey, Attorneys for Atlantic Coast Line Railroad Company.

October 11, 1932.

[fol. 2574] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

MOTION TO SET ASIDE THE FINAL ORDER OF THE INTERSTATE COMMERCE COMMISSION AND FOR FURTHER HEARING IN, AND RECONSIDERATION OF THE ABOVE-ENTITLED PROCEEDING—Oct. 8, 1932

Come now the State of Florida and the Florida Railroad Commission, and not admitting the jurisdiction or power of the Interstate Commerce Commission to enter the final order which was entered in the above entitled cause, but expressly denying the existence of such jurisdiction and [fol. 2575] power, and move the said Interstate Commerce Commission to set aside such final order and for a further hearing in and reconsideration of the above entitled cause, and in support of such motion respectfully show:

I. That by its report and final order dated July 5th, 1932, filed July 15th, 1932, as amended July 28th, 1932, by its terms to become effective September 15th, 1932, this Interstate Commerce Commission purported to fix intra-

state rates thereafter to be charged in Florida for the transportation of logs on the lines of the Atlantic Coast Line Railroad, as follows:

Distances	Rates, cents
10 miles and under	2.5
20 miles and over 10	3.0
30 miles and over 20	3.5
40 miles and over 30	4.0
55 miles and over 40	4.5
70 miles and over 55	5.0
85 miles and over 70	5.5
100 miles and over 85	6.0
120 miles and over 100	6.5
140 miles and over 120	7.0
160 miles and over 140	7.5
170 miles and over 160	8.0

II. That this Interstate Commerce Commission sought to justify its invasion of the domain of the State of Florida and to prescribe intrastate log rates upon no ground save upon the asserted ground that the lawful state rates of the State of Florida constituted an unjust discrimination against interstate commerce from a revenue standpoint.

[fol. 2576] III. That to wit, after said July 5th, 1932, and prior to said September 15th, 1932 (the day on which said final order of this Interstate Commerce Commission was to become effective) numerous railroad carriers doing business in the Southern territorial rate group did file with this Interstate Commerce Commission and said Commission did permit to become effective a scale of rates for the transportation of logs which was and is substantially lower than the rates theretofore obtaining for like application upon the lines of such carriers; that such scale of rates was and is a mileage scale expressed in lump sum terms per carload, regardless of weight, and was and is upon the basis hereinafter set forth, and was and is published in the tariffs hereinafter described by the carriers whose names are hereinafter set forth, viz.:

Distance	Rate per car regardless of weight
25 miles and less	$12.00
50 miles and over 25 miles	15.00
75 miles and over 50 miles	17.50
100 miles and over 75 miles	20.00

[fol. 2577] Authorities for Rates

Railroad tariff No.	I. C. C. tariff No.	Issued by	Application
10956	B-860	M. & O. R. R.	From stations on the M. & O. R R to Columbus, Corinth, Miss., Humboldt, Jackson, Tenn., Meridian, Miss., Mobile, Ala., Wickliffe, Ky., and Whistler, Ala.
590-R	7786	I. C. R. R.	From stations on the I. C. R. R. to Corinth, Miss., Dyersburg, Tenn., Fernwood, Grenada, Jackson, Miss, Jackson, Tenn., McComb, Pickens, Miss., Pochatula, La., Water Valley, Miss.
602-M	7810	Y. & M. V. R. R.	From stations on the Y. & M. V. R. R. to Charleston, Clarksdale, Miss., Denham Springs, La., Gloster, Greenville, Greenwood, Grenada, Hickory, Holcomb, Jackson, Kings, Lambert, Meridian, Natchez, Phillips, Stevenson, Tchula, Trotters Point, Vicksburg and Yazoo City, Miss.
3	3284-A	N. C. & St. L. Ry.	Applies on interstate traffic between points on the N. C. & St. L. Ry.
	Rate Issue		
6	41296	N. C. & St. L. Ry.	Applies on Tennessee State Traffic between points on the N. C. & St. L. Ry.
6	A-10425	Sou. Ry.	From points in Alabama, Georgia and Tennessee, to Chattanooga, Tenn. (Note 1).
3155-F	9019	St. L. S. F. Ry.	Between stations on the St. L. S. F. Ry. in Alabama, Florida and Mississippi (Note 2).
	2848	Cent. of Ga. Ry.	Between stations on Cent. of Ga. Ry. and Montgomery, Ala. (Note 3).

Note 1—Sou. Ry. 25 miles and less, 50c per car more than above scale; all other distances the same as above scale.
Note 2—St. L. S. F. Ry. 100 miles and over 75, $2.50 per car more than above scale; all other distances the same as above scale.
Note 3—Cent. of Ga. Ry. $2.50 per car more than above scale for all distances.

[fol. 2578] IV. That the rates prescribed in the next preceding paragraph (hereinafter sometimes referred to as the Newly Reduced Rates) are now in force and effect and applicable upon lines of divers carriers in the same territorial rate group as is the Atlantic Coast Line Railroad, i. e., the Southern rate group, and in the territory where the transportation conditions surrounding the movement of logs has been declared by witnesses for the Atlantic Coast Line Railroad Company to be substantially similar with the transportation conditions in Florida; that said rates are in force

and effect in interstate commerce in Western Florida over the lines of carriers other than the Atlantic Coast Line Railroad; that there is now a substantial movement of logs by truck in Florida.

V. That at or about the same time that the Newly Reduced Rates were permitted by this Interstate Commerce Commission to become effective and did become effective, to-wit, upon various days in the month of August, 1932, similar rates applicable to the transportation of logs in the southwestern territory were published by divers railroad carriers doing business in the southwestern territory and filed with this Interstate Commerce Commission and were likewise permitted by this Interstate Commerce Commission to become effective in said southwestern territory; that among the tariffs naming such reduced rates applicable in such southwestern territory as aforesaid are the tariffs hereinafter described, issued by the railroads hereinafter named and applicable as hereinafter set forth, viz.:

[fol. 2579]

Railroad tariff No.	I. C. C. tariff No.	Issued by	Application
5683-AA	A-8212	Mo. Pac. R. R.	Between points on Mo. Pac. R. R. in Arkansas, Louisiana, Missouri, Oklahoma and Texas.
31134-N	C-12130	C. R. I. & P. Ry.	Between points on the C. R. I. & P. Ry. in Arkansas and Louisiana.
2915-B	4676	St. L. S. W. Ry.	Between points on the St. L. S. W. Ry. in Arkansas, Louisiana and Missouri. (Applies on cars of 90,000 lbs. or less, excess loads to be charged proportionately).
1485-A	9346	St. L. S. F. Ry.	Between points on the St. L. S. F. Ry. in Arkansas and between points in Arkansas and points in Missouri.

That the reduced rates so established in Southwestern territory as aforesaid are per carload rates regardless of weight and are identical in level with the Newly Reduced Rates established in the southern rate group as aforesaid, save that in Southwestern territory the rate per car for transportation a distance of 100 and over 75 miles is $22.50 and that on the St. L. S. F. Ry. the said rates are applicable on cars of 90,000 lbs. or less, excess loads to be charged proportionately.

VI. That the Cummer Scale is a mileage scale of rates expressed in lump sum terms per car of minimum weight

of 50,000 pounds, excess in proportion; that the Newly Reduced Rates which this Interstate Commerce Commission has permitted to become effective in interstate commerce in Southeastern and Southwestern territories, other than Florida, is expressed in lump sum terms per car regardless of weight; that the capacity of cars in which logs ordinarily are loaded for transportation in Southeastern and Southwestern territories ranges from 80,000 to 100,000 pounds per car, with the privilege of overloading to the extent of 10 per cent of such capacity. And these movants aver that [fol. 2580] shippers generally, particularly shippers of commodities such as logs, in shipping upon rates applicable to carloads regardless of weight, customarily load to the full carrying capacity of the car; and that the loading of logs of all kinds, including hardwood moving in the Southeastern and Southwestern territories and in Florida, upon lump sum per car rates regardless of weight would substantially exceed 70,000 pounds per car, and would range from 75,000 to 85,000 pounds per car or more.

VII. That the table below compares for the hauls therein specified the rates, per car of the weight mentioned, for the transportation of logs upon the Cummer Scale intrastate in Florida (column 2); upon the Newly Reduced Rates (column 3); and upon the scale prescribed by this Interstate Commerce Commission as aforesaid intrastate in Florida (Column 4):

Computed on Carload of 70,000 Lbs.

(1) Hauls in miles	(2) Cummer scale	(3) Newly reduced rates in S. E. territory	(4) Scale fixed by I. C. C.
25 miles	$11.97	$12.00	$24.50
50 miles	14.70	15.00	31.50
75 miles	16.10	17.50	38.50
100 miles	18.20	20.00	42.00
	Computed on Carload of 75,000 Lbs.		
25 miles	12.82	12.00	26.25
50 miles	15.75	15.00	33.75
			41.25
100 miles	19.50	20.00	45.00

Computed on Carload of 80,000 Lbs.

(1) Hauls in miles	(2) Cummer scale	(3) Newly reduced rates in S. E. territory	(4) Scale fixed by I. C. C.
25 miles	13.68	12.00	28.00
50 miles	16.80	15.00	36.00
75 miles	18.40	17.50	44.00
100 miles	20.80	20.00	48.00

Computed on Carload of 85,000 Lbs.

25 miles	14.51	12.00	29.75
50 miles	17.85	15.00	38.25
75 miles	19.55	17.50	46.75
100 miles	22.10	20.00	51.00

[fol. 2581] VIII. That such Newly Reduced Rates are published in some instances as transit rates and in other instances as local rates, and your petitioners aver that the Cummer Scale of rates while in terms a local scale in practical operation and effect is in large part tantamount to a transit scale in that all or substantially all of the outbound product manufactured by the several shippers receiving logs under the Cummer Scale moves over the lines of the Atlantic Coast Line Railroad, under and by virtue of the terms of service contracts exacted from such shippers in case of trainload shipments and by virtue of the location of the mills of many if not most of such other shippers as receive logs under the Cummer Scale. That in practical operation and effect the Newly Reduced Rates are substantially similar to the Cummer Scale. That in seeking to justify its invasion of the domain of the State of Florida, the Interstate Commerce Commission relied upon and gave consideration to comparisons of the said Cummer Scale with divers scales of transit and other rates effective in interstate commerce upon divers other railroads in the Southeastern territory and in the Mississippi Valley; and in several instances the very rates so compared with the said Cummer Scale have been superseded in whole or in part by the Newly Reduced Rates which this Interstate Commerce Commission has suffered and permitted lately to become effective as aforesaid.

IX. That the Newly Reduced Rates are applicable to a very large portion of the interstate log traffic in the South-

ern territorial rate group, as well as in the Southwestern territorial rate group, and are applicable in interstate com- [fol. 2582] merce between ten or more States, and over part or all of the lines of ten or more railroads, as well as in intrastate commerce in divers of such States over part or all of the lines of divers of such railroads; that the action of this Interstate Commerce Commission in permitting the Newly Reduced Rates (which are in operation and effect substantially similar to said Cummer Scale) to become effective and to supersede the substantially higher interstate rates for the transportation of logs, are substantially concurrent with the attempt on the part of said Commission to supersede the said Cummer Scale of rates in intrastate commerce in Florida with a substantially higher scale of rates prescribed by this Interstate Commerce Commission. That this Commission at no time has attempted to fix intrastate rates for the transportation of logs in any State in the Southern territorial rate group other than in Florida, or on any railroad other than the Atlantic Coast Line Railroad.

X. That to-wit, on August 23rd, 1932, these movants did file with this Interstate Commerce Commission their petition for rehearing in and reconsideration of the said report and order heretofore entered herein by this Interstate Commerce Commission as aforesaid; and said petition having been denied these movants did file in the United States District Court for the Northern District of Georgia, Atlanta Division, their bill of complaint, the purpose whereof was to enjoin, annul and set aside so much of the order of the Interstate Commerce Commission as attempted to prescribe intrastate rates for application in Florida; that on September 14th, 1932, said court did duly enter its order staying said order of said Interstate Commerce Commission and said stay order is still in force and effect, and that [fol. 2583] said suit is still pending in said Court. That these movants did not discover or learn that the said Newly Reduced Rates had been filed or permitted by this Interstate Commerce Commission to become effective or were in contemplation until, to-wit, September 26th, 1932, after the said order of this Interstate Commerce Commission had been entered and after the said petition for rehearing had been filed and denied and after the bill

of complaint had been filed in the said United States District Court for the Northern District of Georgia. That these movants by the exercise of no amount of diligence could have sooner discovered the matters and things herein set forth, and since such discovery have acted diligently.

XI. And these movants aver (as at all times in these proceedings they have averred), that this Interstate Commerce Commission is without the power, authority or jurisdiction to prescribe intrastate rates for the transportation of logs in intrastate commerce in Florida in this proceeding; also, that this Interstate Commerce Commission has not made and cannot upon the record in this proceeding make the findings which would justify the invasion of the domain of the State of Florida, and that this Interstate Commerce Commission had not justified and could not upon this record justify the invasion of the domain of the State of Florida to fix intrastate rates in Florida, and that the action of this Interstate Commerce Commission in attempting so to do was and is arbitrary and unlawful; that the matters and things set forth in the proceeding paragraphs of this Motion constitute additional evidence (newly discovered by these movants and overlooked by this Interstate Commerce Commission), further demonstrating that [fol. 2784] the said order of the Interstate Commerce Commission in invading the domain of the State of Florida as aforesaid was not and is not justified and was and is arbitrary and unlawful and ought not to have been entered, and having been entered ought to be set aside by this Interstate Commerce Commission; that forthwith upon the filing of this Motion these movants will seek leave to file and will file in said cause so pending in said United States District Court for the Northern District of Georgia, proper pleadings setting up the matters and things set up in said original bill and in addition setting forth the matters and things set up in this Motion, as further and additional reasons why said order of this Interstate Commerce Commission should be enjoined, annulled and set aside by said Court in the event that this Interstate Commerce Commission shall deny this motion or any part thereof, praying (a) that the present existing order of said Court staying the operation of said order of this Interstate Commerce Commission be continued until this Interstate Commerce Commission shall have acted upon this motion; (b) that in the event that

this Interstate Commerce Commission shall deny this motion or any part thereof, the said order of this Interstate Commerce Commission be enjoined, annulled and set aside as was prayed in said original bill; (c) for such other relief as these petitioners shall be advised is proper in the premises.

Wherefore, your petitioners move that these proceedings be reopened for further hearing and reconsideration; and that the outstanding order herein prescribing rates to be applied for the transportation of logs intrastate in Florida [fols. 2585 & 2586] be annulled and set aside and that these proceedings be dismissed.

Respectfully submitted, The State of Florida, by Cary D. Landis, Its Attorney General. Florida Railroad Commission, by Theo. T. Turnbull, Special Counsel.

Tallahassee, Florida, October 8, 1932.

[fol. 2587] Before the Interstate Commerce Commission

I. C. C. Docket No. 18364

[Title omitted]

Petition of Intervention and Petition for Further Hearing. Filed Oct. 10, 1932.

To the Interstate Commerce Commission:

Comes now your petitioner, F. S. Buffam Company, Inc., and respectfully represents that it has an interest in the matters in controversy in the above-entitled proceeding, and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention, says that:

Petitioner is a corporation organized and existing under the laws of the state of Florida, with its principal office at 234 Ives Street, in the city of Jacksonville, where it operates a cypress and hardwood lumber mill.

Petitioner has good cause to intervene in this proceeding although a second report and order of the Commission thereon have been entered, as will more fully appear from

the following statement of the unusual and alarming conditions which have arisen in the business affairs of petitioner as a direct result of the second decision of the Commission, 186 I. C. C. 157.

Petitioner began operation of its Jacksonville plant subsequent to the first report and decision of the Commission in the above entitled proceeding. Since the Cummer scale of rates on logs was restored on April 16, 1931 and during the year 1932, Petitioner has caused to be shipped by the Atlantic Coast Line Railroad to its Jacksonville plant, which is located on and served exclusively by the Atlantic Coast Line Railroad Company, an average of about 72 carloads of logs per month from stations in Florida such as Lake Butler, Wauchula, Sanford, Palatka and other stations. Petitioner's plant uses no pine logs, such as were the principal source of controversy in the original proceedings in this case. Its supply of inbound logs consists of hardwoods, principally cypress, ash and oak, cypress predominating. The hardwood lumber manufactured by Petitioner's plant moves to far distant destinations, about two thirds going to the eastern markets north of the Richmond gateway, and one third to the central, western and southern states. About ninety per cent of Petitioner's lumber products move outbound by rail, and all of the rail movements are transported over the lines of the Atlantic Coast Line Railroad Company, which railroad enjoys the inbound haul of Petitioner's logs.

[fol. 2588]

The capital invested in the plant operated by Petitioner at Jacksonville is substantial, and the number of persons regularly employed there has been about 125. In addition about 200 persons are employed in the woods getting out the logs and timber to be used in Petitioner's mill.

Subsequent to the second report of the Commission (de-

[fol. 2589]

cided July 5, 1932) information was spread by word of mouth that the Cummer scale of rates would be cancelled and the Commission's own scale would be substituted therefor on logs moving by rail within the State of Florida, on or after the middle of September 1932. Even though no change has occurred at the time of filing this petition (October 8, 1932), the log cutters in the woods, fearing the drastic increases in freight rates which might occur under the impending change, discontinued cutting hardwood, cypress and other logs. The movement of logs to Petitioner's mill suddenly closed. As a result of this un-

usual condition, and being without a supply of such logs, Petitioner was forced to stop the operation of its mill, thereby throwing many persons out of employment.

The Affirmative Relief sought for the future by Petitioner is the leaving in effect of the Cummer scale for application on hardwoods, such as cypress, ash and oak logs from points in Florida to Petitioner's mill, in intrastate commerce under the jurisdiction of the Railroad Commission of Florida, such scale to be used in the nature of and in the absence of proportional or inbound transit rates on logs in connection with outbound shipments of lumber over the lines of the Atlantic Coast Line Railroad to interstate destinations.

Petitioner alleges that in various southern states the railroads, in order to retain their revenues from logs and lumber have voluntarily established in very recent months, even [fol. 2590] subsequent to the date of the second decision of the Commission in this case, scales of rates on logs to be applied when the lumber manufactured therefrom at the mill points is forwarded over the line of the railroad which transported the logs into the mill point, which said scales of rates are commensurate with, and even lower in certain instances than the Cummer scale of rates which has been and is being applied in the nature of proportional rates on logs which move to Petitioners' mill over the Atlantic Coast Line, and which move out as lumber over the same lines of the same railroad. The newly and voluntarily established log scales have been permitted to become effective by the Commission. The presence of such scales which are now available to Petitioner's competitors in other states, such as South Carolina, Alabama, Mississippi and Tennessee, and the withdrawal of the Cummer scale from application to log traffic to Petitioner's mill, would work an undue hardship and prejudice against Petitioner and effect an unfair advantage and preference to mills in South Carolina, Alabama, Mississippi and Tennessee which compete with Petitioner in the sale of their manufactured lumber products in northern markets. Petitioner contends that if this Commission has any authority over such Florida log rates to Petitioner's mill, which Petitioner denies, the Commission cannot lawfully apply any different tests in determining the costs of the service in transporting logs for certain distances as intrastate, local rates than it applies in determin-

ing the costs of the service in transporting logs for like [fol. 2591] distances as inbound proportional rates which, by transit rules and regulations are transformed by legal diction into interstate proportional rates. The Commission cannot lawfully sanction and justify inbound proportional transit rates on logs, over which it perhaps may have jurisdiction through the fiction of "transit", and at the same time condemn intrastate rates on like traffic which for like distances are upon a level commensurate with or higher than the inbound proportional transit "interstate" rates. The proposition here asserted does not appear in and has not been before the Commission in these proceedings. The subject arises out of new circumstances and conditions which have arisen subsequent to the closing of the record in this case after further hearing was held.

Wherefore by reason of the second decision of the Commission in the above entitled proceeding, and nothing else, Petitioner has suddenly been subjected to a total loss of business and is in jeopardy of losing its entire investment and the value of its going concern. Heretofore Petitioner has never been directly affected by the above-entitled proceeding. Petitioner therefore prays that in view of these sudden and unusual conditions it be granted leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, if further testimony is taken, to produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if further argument is granted.

[fol. 2592] Petition for Further Hearing

Petitioner prays that the Commission re-open the above entitled proceeding for further hearing and reconsideration.

Petitioner prays opportunity to offer and present testimony in proof of the fact that Petitioner will suffer irreparable injury if the second decision and order of the Commission in the above entitled proceeding should become effective.

Petitioner also desires opportunity to offer in evidence newly developed facts and changed conditions which have arisen since the second hearing in this proceeding; and if permitted to so do Petitioner will prove vital and material facts which will warrant substantial changes in and re-

versals and modifications of the findings and conclusions in the second report of the Commission, none of which new evidence was available at the time of the second hearing and none of which appears in the existing transcript of record in this case.

Petitioner desires to prove further that under the special circumstances surrounding the operation of Petitioner's hardwood plant, the scale of log rates used by it, and published locally, is in substance and effect a scale of proportional transit rates, commensurate with many other scales of proportional transit rates on logs, which scales are in effect and available for use by mills located in other southern states which sell their products in the same markets in competition with Petitioner. Petitioner avers that such [fol. 2593] evidence has not been heretofore available in this case, and that such evidence was not presented to or known to the Commission when it rendered its second decision in the above-entitled proceeding. Petitioner contends therefore, that it is entiled as a matter of right to an opportunity to present such evidence to the Commission; and that if such opportunity is not accorded, Petitioner shall have been denied a full hearing, as is contemplated by the Interstate Commerce Act. (Sec. 15. (1), Sec. 16 (a)).

Petitioner asks opportunity to offer new and additional proof that the substitution of the Commission's scale for the Cummer scale will not have the intended effect of increasing the revenues of the carriers, but will cut off almost entirely the regular and substantial revenues which defendant has been receiving from the inbound shipment of logs to Petitioner's mill and, in addition, will also cut off, almost entirely the revenues which defendant has been receiving on 90 per cent of Petitioner's manufactured products; and that thereby defendant's revenues will be reduced in substantial amounts. Petitioner asserts that such testimony will prove such facts beyond any reasonable doubt.

Petitioner, without admitting the power or jurisdiction of the Interstate Commerce Commission to enter any order in this proceeding insofar as intrastate local rates in Florida are concerned, but expressly denying the existence of such power and jurisdiction, desires opportunity to prove [fol. 2594] further, that the facts and circumstances surrounding the shipment of logs from points in Florida to

Petitioner's plant at Jacksonville are such that the Commission ought not to assert its jurisdiction over such local intrastate log rates and ought not to seek to impose its power over these Florida intrastate rates.

Petitioner desires to prove further that not only is there an absence of competition between Georgia and Florida cypress ash tank mills in the purchase of Florida hardwood and cypress logs such as would be necessary to warrant the exercise of federal power over Florida intrastate rates, but also that the second decision of the Commission would in itself create and set up a new, unjust and unwarranted discrimination against petitioner and Petitioner's mill locality in favor of competing mills and mill localities in other states which have recently acquired advantage of local transit scales of rates on logs. These new transit scales of rates, established since the date of the second decision of the Commission are commensurate with, and in instances lower and cheaper than the Cummer scale of log rates which are used by Petitioner as proportional rates in the absence of like transit log rate scales which should be accorded to Petitioner in connection with the outbound shipments.

Petitioner desires to prove further that the Cummer scale does not cast a burden upon interstate commerce and that the cancellation of the Cummer scale and the substitution of the Commission's prescribed scale therefor, will not [fol. 2595] have the practical effect which the Commission intended in its second decision upon the net railway operating revenue of the defendant. Petitioner will further show by expert testimony, if given opportunity to do so, that there are serious mistakes, illogical theories, and unwarranted assumptions underlying the so-called accounting evidence which was presented at the second hearing in an effort to prove that the Cummer scale of log rates cast a burden on interstate traffic.

Petitioner asks that it not be required in this petition to explain in detail the errors in the accounting methods and formulas which led the Commission to the conclusion that the Cummer scale cast a burden upon interstate traffic, but if such explanation is deemed by the Commission as essential to support this petition, the Petitioner asks leave to prepare and present to the Commission a full exposition of this subject in a separate brief at some later date

to be hereafter fixed by the Commission. Petitioner asks opportunity to prove further that the failure of defendants to earn a fair return on investment has been due primarily to the fact that its passenger traffic has declined to such an extent that the operating expenses of its passenger traffic actually exceed its passenger revenues, thereby casting an enormous burden upon freight traffic. Freight shippers should not be made to pay increased freight charges on particular commodities to make up for the deficits from passenger operations. This situation has not been pre- [fol. 2596] sented to the Commission in connection with the accounting evidence, theories and formulas which were introduced in evidence at the second hearing. Petitioner asserts that when such evidence is offered in proper form its effect will be so persuasive as to warrant numerous changes in important findings in the Commission's second decision and as to warrant the reversal of the Commission's finding that the Florida log rates cast a burden on interstate commerce.

Petitioner asks opportunity to prove further that, due to the general depression in all lines of prices and the decline in basic commodity prices of agricultural, forest and manufactured products, which, according to common knowledge represent changed conditions which were not before the Commission at the time of the first or second hearings in this case, the charges for the transportation of low-priced commodities, such as logs, must be reduced, instead of increased, unless the rail lines would deliberately design to deliver such traffic to competing forms of transportation, namely the trucks and the water lines. Petitioner will show, contrary to findings of fact and erroneous deductions therefrom which appear in the Commission's second decision, that when the Cummer scale was temporarily and unlawfully lifted, between February 9, 1929 and April 10, 1931, Petitioner received many shipments of logs by water and by motor trucks, and practically none by rail, due to the inability of the rail lines to compete, under the Commission-prescribed log scale, with the other [fol. 2597] modes of transportation; and that as soon as the Cummer scale was restored, April 10, 1931 and up until September 15, 1932, when the Commission's second-prescribed log scale was to replace the Cummer scale, Petitioner's supply of logs was transported almost entirely by

the rail lines, and lines of the defendant Atlantic Coast Line Railroad. All of which, Petitioner will show, is proof of the adage that "increased rates do not necessarily mean increased revenues" because even the threatened increase in Petitioner's log rates in September 1932 resulted in the almost complete and sudden stoppage of all railroad revenues on inbound logs to and outbound lumber from Petitioner's plant.

Petitioner asks opportunity to prove further that the findings and deductions of the Commission on page 170 of the second decision with respect to the comparison of revenue on logs to Jacksonville with the revenue on lumber to Jacksonville is inapt in that Petitioner's tonnage of logs is made into lumber which is not used locally but moves outbound by rail to Northern markets, and the lumber rate from the points of origin of the logs to the final destinations of the lumber are in many instances only 1 cent per 100 pounds in excess of the lumber rates from the milling point. Petitioner will show that the revenues under the Cummer scale from log producing points to Petitioner's mill at Jacksonville plus the revenues under the lumber [fol. 2598] rates outbound to Northern markets, using the ratio of about three cars of logs inbound to one car of lumber outbound, produce far greater revenue than if the lumber were manufactured at the log-shipping point and shipped as lumber to the same eastern markets. Petitioner will show by its experience during the past two months that the effect of the increase in the log rates will be to cut off railroad revenue not only on inbound logs but on outbound lumber as well, without the substitution of any revenue on lumber from the log shipping points direct to northern markets. Petitioner will further show that the effect of the substitution of the Cummer scale by the Commission prescribed scale will drive the tonnage of inbound logs and outbound lumber to other and cheaper modes of transportation, thereby reducing, instead of increasing, both the gross and net revenues of the railroads.

Petitioner desires to show further, by competent evidence that numerous other statements of fact, and deductions based thereon in the Commission's decision, are in some instances erroneous, in others, lacking in a fair conception of the nature of this traffic, of the transportation conditions in Florida, and of the economic effects which

would result from the application of certain doctrines upon which the second decision of the Commission rests. Without undertaking in this petition to elaborate upon and explain the numerous matters of this kind which warrant further study by the Commission, Petitioner avers that the granting of further hearing in this case would enable [fol. 2599] the Commission to acquire a grasp of this situation and a vision of the commercial conditions confronting both the lumber and the railroad industries far different from the views which the Commission has taken of this case as expressed in its second report.

Wherefore petitioner prays that the Commission enter an order in this proceeding, re-opening the same for further hearing, and staying the effective date of its order of July 5, 1932, pending rehearing and reconsideration, as provided in the Interstate Commerce Act, Sec. 16a.

Julian E. Fant and F. C. Hillyer, Attorneys for Petitioner.

[fol. 2600] *Duly sworn to by F. S. Buffam. Jurat omitted in printing.*

[fol. 2601] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted]

REPLY OF DEFENDANT, ATLANTIC COAST LINE RAILROAD COMPANY, TO PETITION OF STATE OF FLORIDA AND FLORIDA RAILROAD COMMISSION FOR FURTHER HEARING AND PETITIONS OF F. S. BUFFAM COMPANY, INC., FOR LEAVE TO INTERVENE AND FOR FURTHER HEARING

Comes now the Atlantic Coast Line Railroad Company, defendant, and for answer to the petition of the State of Florida and the Florida Railroad Commission for further hearing, and the petitions of F. S. Buffam Company, Inc., for leave to intervene and for further hearing, and jointly answering said petitions, respectfully states:

1

That the allegations of said petitions and the grounds set forth and relied upon therein are largely a repetition

of similar allegations in the petition for rehearing heretofore filed on behalf of Wilson Cypress Company and Wilson Lumber Company of Florida, dated October 5, 1932, and this defendant accordingly asks leave to adopt and rely upon its answer to this last-named petition, filed [fol. 2602] on October 11, 1932, and that said answer may be made a part hereof and may be considered and read in connection herewith. That although the petitions of the State of Florida, et al., and F. S. Buffam Company, Inc., carry references to several additional tariffs which were not specifically named in the petition of the Wilson Companies, these tariffs are all tariffs of a similar nature, that is to say, they are tariffs publishing certain temporary rates on logs which are restricted to apply for relatively short distances only, and are generally limited as to origin and destination territories, and the rates are in most instances transit rates—all of said rates having been established solely for the purpose of meeting truck competition. That all of said rates are competitive and depressed rates and are valueless for purposes of comparison in determining the level of reasonable maximum rates on logs, either on the lines of this defendant or elsewhere; and that none of these tariffs have been published for account of this defendant, the Atlantic Coast Line Railroad Company. Neither does it appear that the conditions surrounding the transportation of logs under said tariffs, or any of them, are in any respect similar to the conditions which surround the transportation of logs over the lines of this defendant in Florida, and defendant avers, on the contrary, that such conditions are in fact altogether dissimilar.

2.

That under the Rules of Practice of this Commission no petition of intervention may be filed after a case has been heard and decided but on the contrary such petitions may [fol. 2603] be filed only in a "pending proceeding," and then only "prior to or at the time it is called for hearing, but not after except for good cause shown" (Rule 11 of Rules of Practice), and that the petition of the F. S. Buffam Company, Inc., for leave to intervene has not been filed in compliance with said rule and accordingly it should not be accepted or considered by the Commission.

3

That although said petition of intervention alleges that petitioner began the operation of its plant "subsequent to the first report and decision of the Commission," the petitioner, F. S. Buffam Company, Inc., did begin to operate its plant at Jacksonville in the early part of 1930, and was operating at the time when the further hearings were held herein, said hearings having commenced on June 10, 1931, with additional hearings at a still later date, and that the case was not finally submitted until February 3, 1932, during all of which period petitioner had every opportunity to apply for leave to intervene but failed to do so. That the said hearing of June 10, 1931, was held in the City of Jacksonville, and that E. C. Green, Manager of the Jacksonville Traffic Bureau, which is in turn a branch of the Chamber of Commerce of Jacksonville, was present and entered his appearance on behalf of the Jacksonville Traffic Bureau and the Jacksonville Chamber of Commerce and the Municipality of Jacksonville, and that he was in attendance throughout that hearing and likewise participated throughout the original case, representing the same interests.

[fol. 2604]

4

That said petition of intervention fails in any event to show good cause for the allowance of this intervention. In so far as the petition purports to set up an alleged discrimination against this petitioner and an undue preference and advantage to petitioner's competitors who may be engaged in other localities in the manufacture and shipment of lumber, it represents an effort to have the case reopened, presumably upon the ground of some alleged error in the Commission's former findings, although in respect to an issue upon which the Commission made no finding and on the contrary expressly declined to make any finding. In the report of July 5, 1932, it was stated that "no finding in reference to undue prejudice against persons and localities in interstate commerce is necessary and we make no finding in that regard" (186 I. C. C. 190). And so far as concerns the allegations of injury and detriment to the petitioner, growing out of the Commission's order, defendant is informed and believes and therefore states that this petitioner owns no lumber mill but that in the early part of 1930 it leased and

began to operate a certain mill which is owned by one Gress. The petitioner likewise owns no standing timber, and it purchases logs from various owners of timber who cut the logs and ship them to the mill; and that the petitioner purchases such logs only as and when they are needed to supply the mill in filling orders for lumber. That said mill is located in the outskirts of the city of Jacksonville and within the switching limits of the city, and is likewise located upon McCoys' Creek, which empties into the St. Johns River. That at the time when the petitioner began to operate, and during the entire period June, 1930, to March, 1931, the [fol. 2605] Cummer scale of log rates was not in effect, having been superseded by the scale ordered by this Commission, and that all times during this period, and prior and subsequent thereto, the oportunity was and still is available to the petitioner to move its logs into the mill by water. That during the period June, 1930, to March, 1931, (when this Commission's scale was in force) the log movement to petitioner's mill, other than over the lines of this defendant, was 114 cars; whereas the movement via defendant's lines totalled 89 cars, or an average of 9 cars of logs per month. During the period subsequent to March, 1931, and from April, 1931, to August, 1932, inclusive, the rail movement via defendant's line averaged 36 cars of logs per month. In the month of September, 1932, the rail shipments via the Atlantic Coast Line totalled 39 cars of logs, of which 12 moved in the latter part of September; and in October, 1932, to the present date there has been a movement in this manner of 17 cars.

That so far as concerns the outbound movement of lumber from petitioner's mill, there are available to the petitioner through the medium of a switching service the transportation facilities of all railroads reaching Jacksonville, including the Seaboard Air Line and the Southern Railway, and that during the nine months of the current year the outbound shipments via defendant's lines have totaled 76 cars, and there has been a movement of 6 cars via other lines.

5

Defendant expressly denies that by reason of the second decision of this Commission petitioner "has suddenly been [fol. 2606] subjected to a total loss of business and is in jeopardy of losing its entire investment and the value of its

going concern", as alleged in said petition of F. S. Buffam Company, Inc. Among other things, the petition refers (on p. 2) to "the capital invested in the plant operated by the petitioner"; and, further, to the number of persons who are "employed in the woods getting out the logs and timber to be used in petitioner's mill." Clearly the Buffam Company can claim no right to intervene in order to preserve the capital investment of the Gress Lumber Company, this latter company being the owner of the plant in which the petitioner has no interest except as the lessee; and with respect to the number of persons employed, the petitioner has no employment of persons cutting logs in the woods, the logs being on the contrary cut by, and at the expense of, the parties who sell them to the petitioner. Moreover, the reference in said petition to "unusual and alarming conditions which have arisen in the business affairs of the petitioner as the direct result of the second decision of the Commission" presents no rate condition whatever that did not exist at the time when the petitioner leased its mill and began operations.

6

That said petition discloses no good cause why the petitioner should now be allowed to intervene in this proceeding, or why the proceeding should be reopened and reheard, for the further reason that if any discrimination or other disadvantage should be found to grow out of the Commission's order as affecting this petition or other individual shippers, the way is at all times open to them to seek relief [fol. 2607] before this Commission in an appropriate proceeding. Moreover, if it shall be made to appear in any individual instance that the intrastate rates ordered by the Commission will in fact operate to reduce the income of the defendant by discouraging patronage, an application may at any time be made to this Commission for appropriate exception (Railroad Commission v. C. B. & Q. R. Co., 257 U. S. 563). Defendant, however, denies that the substitution of the Commission's scale for the Cummer scale has had the effect, or will hereafter have the effect, of reducing income by discouraging patronage. Furthermore, there can be no reduction of income growing out of the loss of any traffic if such traffic is being handled at less than the out-of-pocket expense of transportation, and this fact was fully

recognized by the Commission in entering its report and order herein.

7

That even if its intervention should be permitted the said Buffam Company's petition for further hearing sets forth no new facts which would require or justify a reopening of this case and a rehearing thereof by the Commission. The reference in said petition (p. 8) to alleged competition and "unjust and unwarranted discrimination against petitioner and petitioner's mill locality in favor of competing mills and mill localities in other states" concerns an issue as to which the Commission made no finding in the report, and therefore no alleged error in that respect can now properly be set up and claimed as constituting a ground for rehearing and reconsideration by the Commission. Petitioner's [fol. 2608] offer to show by expert testimony that there are "serious mistakes, illogical theories and unwarranted assumptions underlying the so-called accounting evidence which was presented at the second hearing" (petition, p. 9) is made in the face of the fact that all of this accounting evidence was subjected to the closest scrutiny by representatives of the State of Florida at the hearings, and by this Commission in the course of its consideration of the case, and the substantial accuracy of the compilations submitted by defendant's witnesses at the hearing was confirmed. Moreover, this study and analysis of the accounts of this defendant was not limited to the revenues and expenses from the transportation of freight alone, but there were taken into account the revenues and expenses of conducting the passenger service. The petition in this respect represents nothing more than an offer on the part of the petitioner to seek to prove that the Commission misinterpreted and misapplied the evidence which was before it in the record and which had been developed at most extensive hearings.

8

That petitioner's offer to prove that the scale of log rates used by it "is in substance and effect a scale of proportional transit rates, commensurate with any other scales of proportional transit rates on logs" (petition, p. 6), is made in disregard of the fact that this case involves the local rates on logs between all Florida points, and that the use of the

Cummer scale throughout that state in no way carries with it the shipment of the manufactured product of the logs. Log shippers in Florida who ship a volume of logs many times in excess of this petitioner's shipments are not bound [fol. 2609] to ship the product via defendant's lines and do not do so in actual practice. On the other hand, under the transit tariffs of certain lines in the Mississippi Valley and elsewhere, referred to in the petition, the shipment of the manufactured product via the line that carries the logs to the mill is essential in order to secure the application of the transit rates on the logs.

For the reasons set forth herein, as well as in the answer to the separate petition of Wilson Lumber Company, et al., defendant respectfully submits that the petition of the State of Florida and the Florida Railroad Commission, and the petitions of the F. S. Buffam Company, Inc., should at the earliest practicable date be denied by the Commission. The petitioners have now filed in the United States District Court in Georgia supplemental or original bills setting up the filing of these petitions with the Commission, and urging the matters and things set forth therein as constituting ground for a further stay of the Commission's order by the Court, and further praying that the order shall be stayed pending action by the Commission upon the petitions, and defendant is advised that the matter is now set for further hearing before the Court on October 22, 1932.

Respectfully submitted, Atlantic Coast Line Railroad Company, by Robert C. Alston, Carl H. Davis, Frank W. Gwathmey; Its Attorneys.

October 17, 1932.

[fol. 2610] BEFORE INTERSTATE COMMERCE COMMISSION

No. 18364

[Title omitted]

ORDER REOPENING PROCEEDING—Oct. 21, 1932.

Upon consideration of petitions for further hearing and reconsideration of the above-entitled proceeding filed by interveners Wilson Cypress Company and Wilson Lumber

Company of Florida and by the State of Florida and the Florida Railroad Commission, of petition for leave to intervene and for further hearing filed by F. S. Buffum Company, Inc., and of defendant's answers to said petitions:

It is ordered, that said proceeding be, and it is hereby, reopened for further hearing for the sole purpose of receiving evidence respecting any change in the rates on logs since the close of the last hearing herein, the circumstances connected with and the conditions which occasioned such changes, and whether such circumstanes and conditions, or any of them, are present with respect to the Florida intrastate log rates of defendant.

It is further ordered, that the operation of the order heretofore entered in this proceeding on July 5, 1932, as amended by order of July 28, 1932, be, and it is hereby, suspended until the further order of the commission.

It is further ordered, that F. S. Buffum Company, Inc., be, and it is hereby, permitted to intervene and be treated as a party to this proceeding, with the right to have notice of and appear at the taking of further testimony, produce and cross examine witnesses, and participate in oral argument, if any be had; provided that the permission to intervene herein granted shall not be construed to allow inter- [fol. 2611] vener to introduce evidence not within the scope of such further hearing.

It is further ordered, that in all respects the aforesaid petitions be, and they are hereby, denied.

It is further ordered, that this proceeding be, and it is hereby assigned for such further hearing November 10, 1932, at 10:00 o'clock, A. M., standard time, at Hotel Mayflower, Jacksonville, Fla., before Examiner Hoy.

It is further ordered, that briefs on further hearing shall not be received, that there shall be no proposed report of the examiner, and that there shall be no oral argument before the commission; provided, however, that at the conclusion of such further hearing oral argument, if desired, may be had before the presiding examiner.

By the commission.

George B. McGinty, Secretary.

A true copy.

George B. McGinty, Secretary. (Seal Interstate Commerce Commission.)

[fols. 2612-2614] INTERSTATE COMMERCE COMMISSION
WASHINGTON

Feb. 24, 1933.

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of the following:

Order of the Commission entered October 21, 1932,

Notice of the Commission dated October 28, 1932,

Transcript of the stenographer's notes of the hearing held November 21 and 22, 1932, at Jacksonville, Florida, before Examiner Hoy, and of exhibits filed at said hearing,

Report and order of the Commission filed and entered January 9, 1933, and

Order of the Commission entered January 19, 1933, in Docket No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 21st day of February, A. D. 1933. George B. McGinty, Secretary of the Interstate Commerce Commission. (Seal Interstate Commerce Commission.)

[fols. 2615-3632] BEFORE INTERSTATE COMMERCE COMMISSION
WASHINGTON

No. 18364

[Title omitted]

ORDER REASSIGNING CAUSE—October 28, 1932

Further hearing in the above entitled case, now assigned for November 10, 1932, at Jacksonville, Florida, before Examiner Hoy, is cancelled, and this case is reassigned for hearing November 21, 1932, ten o'clock a. m., standard time, at the Mayflower Hotel, Jacksonville, Florida, before Examiner Hoy.

By the Commission.

George B. McGinty, Secretary.

[fol. 3033]

EXHIBIT GREEN #134

I. C. C. Docket 18364

Witness Green

Statement Showing Proportional or Net Rates on Logs as Described in the Following Tariffs

Missouri Pacific Railroad

I. C. C. No.	Supplement No.	Application
A 7348	12	On intrastate traffic in Louisiana up to 75 miles.
A 7349	45	On interstate traffic only between stations in Missouri.
A 8193		On intrastate and interstate traffic between stations in Arkansas.
A 8018	16	Between all stations in Arkansas, Louisiana, Missouri, Oklahoma and Texas; also from specifically named stations on the M. P. in the state of Arkansas to Cape Girardeau, Mo.; for distances 100 to 142 miles.

St. L. & S. F. Railroad

9639	28	From St. L. & S. F. stations in Tennessee and Mississippi to Memphis, Tenn., only.
9640		Between St. L. & S. F. stations in Missouri.
9638		From stations on the St. L. & S. F. in Arkansas and Missouri to Cape Girardeau.
9346	17	Between stations in Arkansas and also between stations in Arkansas on the one hand and stations in Missouri.
9019	17	Between all stations in Alabama; between all stations in Alabama and Florida or Mississippi; between all stations in Mississippi; and between all stations in Florida.
9567	2	Intrastate traffic between stations, Missouri.
9235	10	Same as above.
9195		Intrastate traffic in Mississippi.

G. M. & N. Railroad

1137		Between all stations on G. M. & N. R. R.
1058		Intrastate in Mississippi.

C. R. I. & P. Railroad

C 12130	9 & 10	Intrastate traffic in Louisiana; from C. R. I. & P. stations in Arkansas and Louisiana to Memphis, Tenn.; between stations in Arkansas, and between stations in Arkansas on the one hand and stations in Louisiana; also between stations in Louisiana on interstate traffic.

[fol. 3034]

St. L. & S. W. Railroad

4676	3	Between all stations in Arkansas, Louisiana and Missouri; also from stations in Arkansas to Memphis.
J. E. Johanson, Agent Freight Distance Tariff 5-H		On intrastate traffic in Arkansas between all stations on the lines of the C. R. I. & P., St. L. & S. F. and St. L. & S. W.

Distance	Rate per car regardless of weight
25 miles and under	$12.00
50 miles and over 25	15.00
75 miles and over 50	17.50
100 miles and over 75	22.50

[fol. 3035] EXHIBIT GREEN #135

I. C. C. Docket 18364

Witness Green

Statement Showing Proportional or Net Rates on Logs as Described in the Following Tariffs

Southern Railway

I. C. C. No.	Supplement No.	Application
A-10425	5	From Southern Ry. stations in Ga., Tennessee and Ala. to Chattanooga; from A. G. S. R. R. stations in Ala. and Tenn. to Chattanooga; from C. N. O. & T. P. stations in Tennessee to Chattanooga; applicable on both interstate and intrastate traffic in Tennessee.
A-10472		Under transit arrangements from So. Ry., A. G. S. and C. N. O. & T. P. stations in Ga. and Ala. to Chattanooga.
Agent F. L. Speiden's		
A 659	115	From all T. A. & G. stations to Chattanooga, Tenn., and Gadsden, Ala.

Distance	Rate per car regardless of weight
25 miles and under	$12 50
50 miles and over 25	15 00
75 miles and over 50	17 50
100 miles and over 75	20 00

[fol. 3036] EXHIBIT GREEN #136

I. C. C. Docket No. 18364

Witness Green

Statement Showing Proportional or Net Rate on Logs as Described in the Following Tariffs

Southern Railway

I. C. C. No.	Supplement No.	Application
10472		Under transit arrangements from So. Ry. stations in Mississippi, Ala., and Tenn. to Corinth, Miss.
10448	2	From all stations on the So. Ry. between Memphis, Tenn., and Corinth, Miss., to Memphis, Tenn.
Illinois Central R. R.		
7789		From all stations on the G. & S. I. to Jackson, Miss., and Laurel, Miss.
7810 (Y. & M. V.)	4 and 5	From stations on the Y. & M. V. east of the Miss. River to the following points in Miss.: Clarksdale, Gloster, Greenville, Greenwood, Grenada, Hickory, Holcomb, Jackson, Kings, Lambert, Meridian, Natchez, Phillip, Stevenson, Tehule, Trotters Point, Vicksburg, Yazoo City; and also to Denham Spr., La.
7786	3	From all stations on the I. C. on its southern lines to the following pts.: Corinth, Miss., Dyersburg, Tenn., Fernwood, Miss., Grenada, Miss., Jackson, Miss., Jackson, Tenn., McComb, Miss., Pickings, Miss., Ponchatoula, La., Water Valley, Miss.
7811 (Y. & M. V.)		Between all stations on the Y. & M. V., located west of the Miss. River.

N. C. & St. L. Railroad

3284-A	...	Between all stations on the N. C. & St. L.

Columbus & Greenville R. R.

36	6 and 8	From all stations on the C. & G. to the followin pts. in Mississippi: Columbus, Greenvill Grenada and West Point.

M. & O. Railroad

B-860	1	From all stations on the M. & O. in Ala., Ky Miss. and Tenn. south of the Ohio River to th following points: Columbus, Corinth, Meridian Miss.; Humboldt, Jackson, Tenn.; Mobile Whistler, Ala.

Distance	Rate per car regardless of weight
25 miles and under	$12.00
50 miles and over 25	15.00
75 miles and over 50	17.50
100 miles and over 75	20.00

[fol. 3037]

EXHIBIT GREEN #137

I. C. C. Docket 18364

Witness Green

Statement Showing Proportional or Net Rates on Logs as Described in th Following Tariffs

S. A. L. Ry.

I. C. C. No.	Supplement No.	Application
A-7638	...	From stations on the S. A. L. Ry. in Alabam located between Omaha, Ga., and Montgomery Ala., under transit rules and regulations.

Western Ry. of Ala.

A-129	...	From all stations on the Western Ry. of Ala. t Montgomery, Ala., and Selma, Ala.

Central of Ga. Ry.

2848	...	From all stations on the Central of Ga. in Alabam to Montgomery, Ala., under transit arrange ments.

Southern Ry.

A-10425	6	From all Southern Railway stations in Alabam to both Mobile and Selma, from all Southern Ry. stations in Alabama and from all station on the A. G. S. in Alabama and Mississippi t York, Ala.; not applicable under transit rule and regulations.

Distance	Rate per car regardless of weight
25 miles and under	$14.50
50 miles and over 25	17.50
75 miles and over 50	20.00
100 miles and over 75	22.50

[fol. 3038] EXHIBIT GREEN No. 138

Docket No. 18364

Witness Green

Statement Showing Revenues Per Car, of Various Weights under the "So-Called" "Cummer" Scale, Compared with Various Other Scales of Proportional or Net Rates Applicable to Logs

Under the following scales	Tariff authority	25 miles	50 miles	75 miles	100 miles
Per Car of 70,000 Pounds for					
Cummer Scale	* A	$11.97	$14.70	$16.10	$18.20
Mississippi Valley	# B	12.00	15.00	17.50	22.50
Chattanooga	# C	12.50	15.00	17.50	20.00
Mississippi	# D	12.00	15.00	17.50	20.00
Montgomery	# E	14.50	17.50	20.00	22.50
Docket 18364	F	24.50	31.50	38.50	42.00
Per Car of 75,000 Pounds					
Cummer Scale	* A	$12.83	$15.75	$17.25	$19.50
Mississippi Valley	# B	12.00	15.00	17.50	22.50
Chattanooga	# C	12.50	15.00	17.50	20.00
Mississippi	# D	12.00	15.00	17.50	20.00
Montgomery	# E	14.50	17.50	20.00	22.50
Docket 18364	F	26.25	33.75	41.25	45.00
Per Car of 80,000 Pounds					
Cummer Scale	* A	$13.68	$16.80	$18.40	$20.80
Mississippi Valley	# B	12.00	15.00	17.50	22.50
Chattanooga	# C	12.50	15.00	17.50	20.00
Mississippi	# D	12.00	15.00	17.50	20.00
Montgomery	# E	14.50	17.50	20.00	22.50
Docket 18364	F	28.00	36.00	44.00	48.00
Per Car of 85,000 Pounds					
Cummer Scale	* A	$14.53	$17.85	$19.55	$22.10
Mississippi Valley	# B	12.00	15.00	17.50	22.50
Chattanooga	# C	12.50	15.00	17.50	20.00
Mississippi	# D	12.00	15.00	17.50	20.00
Montgomery	# E	14.50	17.50	20.00	22.50
Docket 18364	F	29.75	38.25	46.75	51.00
Per Car of 90,000 Pounds					
Cummer Scale	* A	$15.39	$18.90	$20.70	$23.40
Mississippi Valley	# B	12.00	15.00	17.50	22.50
Chattanooga	# C	12.50	15.00	17.50	20.00
Mississippi	# D	12.00	15.00	17.50	20.00
Montgomery	# E	14.50	17.50	20.00	22.50
Docket 18364	F	31.50	40.50	49.50	54.00
[fol. 3039] **Per Car of 100,000 Pounds**					
Cummer Scale	* A	$17.10	$21.00	$23.00	$26.00
Mississippi Valley	# B	12.00	15.00	17.50	22.50
Chattanooga	# C	12.50	15.00	17.50	20.00
Mississippi	# D	12.00	15.00	17.50	20.00
Montgomery	# E	14.50	17.50	20.00	22.50
Docket 18364	F	35.00	45.00	55.00	60.00

Tariff Authorities:

* A—Agent J. H. Glenn, I. C. C. A-659, page 413, first item as illustrative.
* B—G. M. & N. R. R. I. C. C. 1137.
St. L. & S. F. R. R. Sup. 17 to I. C. C. 9019.
* C—Sou. Ry. Sup. 5 to I. C. C. A-10425.
Agent F. L. Speiden, Sup. 115 to I. C. C. A-659, page 6 last item as illustrative.
* D—I. C. R. R. Sup. 4 and 5 to I. C. C. 7810.
M. & O. R. R. Sup. 1 to I. C. C. B-860.
* E—W. Ry. of A. R. R. I. C. C. A-129 as illustrative.
* F—Prescribed by I. C. C. in I. C. C. Docket 18364.

* Cummer scale is as follows:

Per car of 50,000 pounds, excess in proportion.	
40 miles and under	$8.55
60 " " over 40	10.50
90 " " " 60	11.50
100 " " " 90	13.00
110 " " " 100	14.00
130 " " " 110	16.00
160 " " " 130	17.00
170 " " " 160	18.50

* Scales are as follows:

	Per Car Regardless of Weight			
	Mississippi Valley	Chattanooga	Mississippi	Montgomery
25 miles and under	$12.00	$12.50	$12.00	$14.50
50 " " over 25	15.00	15.00	15.00	17.50
75 " " " 50	17.50	17.50	17.50	20.00
100 " " " 75	22.50	20.00	20.00	22.50

[fol. 3040]

EXHIBIT No 140A

I. C. C. Docket 18364

List of Certified Tariffs Included in Exhibit No 140

Explanation of references shown in Column 6:
L—Local
P—Proportional
T—Transit
B—Bond

1	2	3	4	5	6
Railroad	Tariff I. C. C. No.	Supplement	Title page and page No.	Effective	
Missouri Pacific	A-7348	12	4	Feb. 15, 1932	L
" "	A-7349	15	4	Aug. 17, 1932	L
" "	A-8163		10	Aug. 15, 1932	L
" "	A-8018	6	4	Aug. 19, 1932	L P
St. Louis San F.	9195	28	2	Aug. 23, 1932	L
" "	9640		11	Sept. 3, 1932	L
" "	9638		10	Aug. 31, 1932	L
" "	9346	17	3	Aug. 25, 1932	L
Gulf, Mobile & Nor.	1137		5	May 9, 1932	P B
Southern Ry.	A-10425	5	2	Sept. 26, 1932	L
"	A-10472		4	Sept. 15, 1932	Net
"	A-10467		1-5	Aug. 12, 1932	T
"	A-10367		1, 5	Aug. 12, 1932	T
"	A-10448	2	2	Sept. 15, 1932	P B

EXHIBIT No 140A

I. C. C. Docket 18364

List of Certified Tariffs Included in Exhibit No. 140

Explanation of references shown in Column 6:
L—Local
P—Proportional
T—Transit
B—Bond

1	2	3	4	5	6
Railroad	Tariff I. C. C. No.	Supplement	Title page and page No.	Effective	
Illinois Central	7789		4	Inter May 18	
				Intra Apr. 16, 1932	P
" "	7313	24	2	Inter Oct. 12	
				Intra Sept. 12 "	P
" "	7786	3	1, 4	May 3, 1932	P T
Yazoo & Miss. Val.	7810		7	Inter July 20	
				Intra June 17 "	L P
" "	7810	5	3	Inter Nov. 13	
				Intra Oct. 15 "	L P
" "	7811		54	July 19, 1932	T
" "	7810		1, 3	Sept. 24, 1932	L
N. C. & St. L.	3284-A		3	Oct. 6, 1932	L
"	3284-A		1, 2	Aug. 27, 1932	L
" (Tenn.	41296)		1	Oct. 6, 1932	L
(Certificate of Tennessee Commission)					
New Orleans & N. E.	3101		4	Inter July 26, "	P B
				Intra June 26, "	
Columbus & Greenville	36	6	Reverse	Inter Sept. 10	P
				Intra June 10	
"	36	8	"	Inter Sept. 10	T
				Intra Aug. 10	
C. R. I. & P.	12130	9	5	Oct. 22, 1932	L
"	12130	10	6	Nov. 10, 1932	L
St. L. S. W.	4676	3	4	Aug. 25, 1932	P
St. L. S. F.	9019	17	2	Aug. 23, 1932	L
[fol. 3041]					
				Inter June 16.	
Missouri & N. Ark.	678	1	3	Intra May 16, 1932	T
" "	678	2	2	July 13, 1932	T
Seaboard Air Line	A-7638		4	Inter Oct. 25	
				Intra Sept. 12 "	T
Atlanta & West Pt.	A-129		5	Inter Oct. 12	
W. Ry. of Ala.				Intra Sept. 12 "	T
Central of Ga.	2848		1-4	Aug. 12, 1932	T
" "	2848		1-5	Sept. 13, 1932	T
Mobile & Ohio	B-860		1, 3	Aug. 25, 1932	P B T
Not certified, but referred to in oral testimony:					
St. L. S. F.	9567	2		Intrastate Mo.	L
Johanson's	5-H			Intrastate Ark.	L

[fol. 3042]

EXHIBIT BUFFUM NO. 141

I. C. C. Docket 18364

Inbound Cars

Logs

1930	A.C.L.	S.A.L.	Sou.	F.E.C.	Rail-road	Truck	Water	Truck and water
June	2	2	1	....	5	6.3	.....	6.3
July	10	15	....	5	30	22.5	.....	22.5
Aug.	15	33	1	5	54	55.3	.....	55.3
Sept.	13	4	....	....	17	55.4	.5	55.9
Oct.	7	0	....	2	9	99.3	4.6	103.9
Nov.	24	10	....	3	37	62.2	.....	62.2
Dec.	10	3	....	....	13	31	3.3	34.3
1931								
Jan.	11	8	....	....	19	63.4	22.7	86.1
Feb.	15	22	....	4	41	82.4	6.8	89.2
Mar.	16	10	....	....	26	72.7	.4	73.1
Apr.	13	....	....	5	18	75.9	23.5	99.4
May	6	....	....	....	6	77.4	23.2	100.6
	142	107	2	24	275	703.8	85.	788.8
June	23	....	....	....	23	73.9	.....	73.9
July	43	....	....	....	43	75.8	.....	75.8
Aug.	34	....	....	....	34	119.5	.....	119.5
Sept.	24	....	....	....	24	38.6	.....	38.6
Oct.	2	....	....	....	2	0	.....	0
Nov.	0	....	....	....	0	26.7	.....	26.7
Dec.	8	....	....	....	8	48.5	2.1	50.6
	134				134	383.0	2.1	385.1
1932								
Jan.	20	....	....	....	20	107	.....	107.
Feb.	53	....	....	....	53	102.8	15.2	118
Mar.	58	2	....	....	60	100.8	10	110.8
Apr.	75	3	....	....	78	87.5	10	97.5
May	107	16	....	....	123	99.3	4.3	103.3
June	59	5	....	....	64	48.	8.6	56.6
July	98	2	....	....	100	72.6	.3	72.9
Aug.	88	....	....	....	88	71.6	6.3	77.9
Sept.	39	....	....	....	39	70.3	.2	70.5
Oct.	58	....	....	....	58	88.6	9.3	97.9
	655	28	....	....	683	848.5	64.2	912.7
Grand Total					1092	1935.3	151.3	2086.6

1092.

3178.6

[fol. 3043]

[Stamp:] Interstate Commerce Commission. Docket No. 18364, Exhibit No. 142. Witness Roland. Complainant's, Defendant's, Commission's, Intervenor's. Date 11-21-32. Reporter Algee.

Shipments of Over 70,000 Pounds to Wilson Lumber Company of Florida Included in Restitution Claim

Date of shipment	Car number	Origin	Destination	Weight
11/18/29	A. C. L. 90432	Miccosukee	Perry	70,328
11/ 9/29	91359	Williston	"	75,200
5/ 3/29	91805	Hildreth	"	71,500
5/ 4/29	76806	Homassassa	"	72,400
5/ 6/29	76663	"	"	82,000
5/ 6/29	76813	"	"	78,180
5/ 8/29	76274	"	"	81,600
5/ 8/29	76618	"	"	73,600
5/11/29	74229	"	"	75,460
5/11/29	76002	"	"	79,960
5/11/29	73870	"	"	77,500
"	74195	"	"	77,700
5/10/29	76363	"	"	73,720
5/15/29	76356	"	"	71,580
5/18/29	73881	"	"	74,360
5/17/29	76657	"	"	77,700
"	73861	"	"	83,240
"	75608	"	"	83,600
"	76162	"	"	75,400
5/13/29	75438	"	"	73,300
5/20/29	76282	"	"	79,560
"	72389	"	"	79,020
5/22/29	74390	"	"	85,940
"	74351	"	"	87,720
"	74199	"	"	71,640
5/24/29	72537	"	"	74,120
5/27/29	74012	"	"	87,020
"	73138	"	"	74,400
"	73754	"	"	73,160
5/29.29	73114	"	"	72,500
5/27/29	76454	"	"	74,780
6/ 3/29	73107	"	"	82,700
6/ 3/29	76483	"	"	70,440
6/ 3/29	75550	"	"	79,440
"	73734	"	"	82,560
"	76450	"	"	70,200
"	76087	"	"	86,000
"	74368	"	"	85,820
6/ 5/29	76262	"	"	81,920
6/ 7/29	76806	"	"	83,700
"	73810	"	"	73,200
5/31/29	75567	"	"	72,200
6/10/29	73870	"	"	89,900
"	73988	"	"	78,400
6/10/29	76999	"	"	78,800
"	76881	"	"	77,100
"	79958	"	"	74,360
6/17/29	76577	/	"	80,400
"	72804	"	"	74,100
"	76618	"	"	78,300
"	76386	"	"	73,200
6/19/29	73886	"	"	88,660
"	75001	"	"	71,400
"	76976	"	"	78,840
"	73999	"	"	73,340
6/21/29	76815	"	"	74,700
"	76391	"	"	76,300

6/26/29	A. C. L.	76982	"	Perry	77,300
6/26/29		72036	"	"	70,220

[fol. 3044]

7/ 1/29		76318	Homassassa	"	70,120
7/ 1/29		75690	"	"	75,000
"		75368	"	"	71,660
7/ 3/29		72375	"	"	74,400
"		72550	"	"	72,700
"		74327	"	"	78,400
7/12/29		72886	"	"	74,400
"		74109	"	"	73,900
7/15/29		73152	"	"	72,360
7/17/29		76060	"	"	73,300
7/22/29		72640	"	"	73,900
7/24/29		75353	"	"	70,900
8/ 2/29		76625	"	"	71,400
8/ 7/29		72656	"	"	73,520
8/21/29		73361	"	"	70,100
11/28/29		91936	Lamont	"	71,687
2/15/29		73994	Carbur	"	72,115
2/21/29		72573	"	"	73,812
3/ 4/29		72219	"	"	70,577
3/ 7/29		75000	"	"	73,692
5/ 7/29		74044	"	"	70,804
"		73275	"	"	70,068
5/11/29		5838	"	"	80,049
5/14/29		73615	"	"	73,335
"		76749	"	"	70,184
"		76969	"	"	72,936
"		75051	"	"	75,729
5/16/29		73427	"	"	70,260
5/17/29		73314	"	"	73,070
5/24/29		75597	"	"	73,901
5/31/29		75161	"	"	70,614
6/14/29		75650	"	"	70,111
6/21/29		72617	"	"	70,774
6/20/29		73025	"	"	71,994
6/20/29		73824	"	"	70,854
6/25/29		73908	"	"	77,781
6/29/29		74179	"	"	71,478
6/28/29		75550	"	"	71,081
"		75468	"	"	71,040
"		72619	"	"	73,708
7/ 5/29		72519	"	"	77,564
"		73479	"	"	76,769
7/12/29		76982	"	"	70,948
"		72008	"	"	71,457
"		74179	"	"	78,698
7/19/29		76584	"	"	77,081
"		72824	"	"	72,796
7/24/29		75511	"	"	76,446
7/29/29		76301	"	"	70,795
"		73191	"	"	81,536
8/ 2/29		75211	"	"	77,103
"		72077	"	"	76,982
8/ 1/29		75268	"	"	74,618
"		76662	"	"	73,692
8/ 5/29		76301	"	"	71,088
9/20/29		72144	"	"	71,729
9/21/29		76950	Cross City	"	83,400
"		75463	"	"	73,600
9/16/29		75463	"	"	88,200
9/21/29		72178	"	"	77,800

[fol. 3045]

Date of shipment	Car number	Origin	Destination	Weight
9/19/29	A. G. L. 73991	Cross City	Perry	80,300
9/30/29	73810	"	"	71,000
9/30/29	74109	"	"	73,400
9/26/29	73718	"	"	73,400
10/24/29	75083	"	"	78,600
11/ 7/29	73479	"	"	73,700
"	76087	"	"	81,500
11/19/29	74204	"	"	75,200
3/19/29	76479	Hines	"	70,330
3/26/29	75000	"	"	71,911
3/29/29	72312	"	"	73,945
4/ 3/29	74382	"	"	72,740
5/14/29	76813	"	"	75,973
5/18/29	74195	"	"	81,378
6/ 5/29	75202	"	"	76,081
6/13/29	76363	"	"	73,762
9/10/29	72979	"	"	73,459
1/24/30	73243	Cross City	"	72,200
1/24/30	70331	"	"	70,600
4/19/30	92144	"	"	79,300
"	92334	"	"	70,300
4/25/30	90505	"	"	70,900
"	93116	"	"	78,700
4/26/29	90719	"	"	71,500
5/ 9/30	91391	"	"	81,900
5/16/30	93161	"	"	80,300
5/19/30	92176	"	"	79,700
"	92448	"	"	73,000
5/22/30	90679	"	"	76,500
"	92876	"	"	74,900
"	90643	"	"	73,800
"	91582	"	"	82,400
5/29/30	92170	"	"	82,300
"	90666	"	"	73,600
6/ 6/30	92235	"	"	78,800
6/10/30	92279	"	"	76,400
7/18/30	92020	"	"	92,100
"	91696	"	"	80,400
8/ 1/30	93046	"	"	82,000
"	92168	"	"	83,200
8/ 2/30	90892	"	"	84,400
8/ 8/30	91520	"	"	87,100
"	90601	"	"	77,400
8/13/30	92546	"	"	81,700
"	92400	"	"	78,000
8/22/30	91335	"	"	83,800
8/28/30	92674	"	"	82,400
8/29/30	90816	"	"	76,600
9/26/30	93137	"	"	84,600
10/ 3/30	93155	"	"	74,100
10/14/30	91895	"	"	71,700
10/18/30	92616	"	"	84,700
10/30/30	90745	"	"	80,900
11/14/30	91702	"	"	84,100
11/21/30	92732	"	"	81,300
11/25/30	92626	"	"	75,700
"	93102	"	"	76,300
11/28/30	91108	"	"	71,800
11/29/30	91847	"	"	70,000
12/ 8/30	74489	"	"	75,200
"	92098	"	"	77,500
"	92320	"	"	81,400
12/18/30	74489	"	"	70,000
12/30/30	91749	"	"	75,700
"	90625	"	"	72,500

[fol. 3046]

Date of shipment	Car number	Origin	Destination	Weight
4/10/30	73391	Hines	Perry	75,402
"	73397	"	"	74,277
"	75481	"	"	79,916
4/16/30	75134	"	"	79,018
5/20/30	73236	"	"	76,041
"	74004	"	"	83,267
"	74206	"	"	71,136
"	75603	"	"	75,600
6/19/30	74122	"	"	70,876
"	5859	"	"	70,085
"	73416	"	"	74,742
"	73025	"	"	70,972
"	72035	"	"	76,658
6/26/30	74122	"	"	70,205
1/ 3/31	74467	Cross City	"	73,300
1/ 5/31	92618	"	"	87,400
"	92983	"	"	74,100
"	91708	"	"	80,900
1/ 6/31	74462	"	"	80,100
"	74467	"	"	74,000
1/ 7/31	90957	"	"	83,200
"	74461	"	"	80,700
"	74489	"	"	78,600
"	74425	"	"	78,700
"	92093	"	"	82,000
1/17/31	74489	"	"	76,800
"	74425	"	"	83,800
1/26/31	74489	"	"	71,400
1/27/31	91460	"	"	71,700
"	74467	"	"	72,000
"	74462	"	"	70,400
2/26/31	74432	"	"	70,900
"	74477	"	"	72,600
3/10/31	74450	"	"	79,800
"	74461	"	"	72,600
3/14/31	74489	"	"	77,900
"	92183	"	"	72,300
3/12/31	90486	Miccosukee	"	71,061

[fol. 3047] J. E. PRESTON No. 145

I. C. C. Docket 18364

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date	Car No.	Origin	Weight
2/19/29	A. C. L. 73976	Hines, Fla.	77,100
2/21/29	76706	"	78,600
2/21/29	76708	"	72,500
2/28/29	76742	"	71,200
3/ 2/29	76564	"	72,500
3/ 4/29	76710	"	79,900
3/ 4/29	74362	"	78,300
3/ 6/29	76502	"	74,500
3/ 8/29	76596	"	74,500
3/12/29	76592	"	78,000
3/12/29	76178	"	74,200
3/15/29	73864	"	82,900
3/19/29	74139	"	79,800
3/21/29	76364	"	77,600
3/20/29	73840	"	72,200
3/21/29	74130	"	74,200
3/23/29	72473	"	70,400
3/23/29	73321	"	72,900
3/29/29	74367	"	85,500
4/ 1/29	74394	"	77,500
4/ 1/29	73317	"	70,300
4/ 2/29	75632	"	74,200
4/ 4/29	76958	"	74,900
4/ 4/29	75747	"	70,700
4/ 2/29	75327	"	85,500
4/ 6/29	74230	"	76,400
4/ 9/29	76810	"	79,600
4/10/29	6294	"	72,400
4/ 9/29	76738	"	85,700
4/13/29	72943	"	73,400
4/13/29	72177	"	73,700
4/16/29	73193	"	89,900
4/17/29	70069	"	85,300
4/18/29	72197	"	80,000
4/20/29	72671	"	83,700
4/25/29	76743	"	78,000
4/25/29	75000	"	78,800
4/25/29	74387	"	72,100
4/23/29	73342	"	78,600
4/24/29	76759	"	82,800
4/24/29	76026	"	72,500
4/26/29	72044	"	81,200
4/29/29	75553	"	71,400
4/29/29	73073	"	71,400
4/29/29	74160	"	73,300
5/ 1/29	76176	"	72,400
5/ 8/29	76725	"	74,800
5/11/29	73982	"	81,200
5/14/29	76663	"	70,300
5/14/29	73027	"	70,500
5/14/29	73329	"	71,500
5/15/29	74312	"	73,800
5/15/29	73283	"	72,100
5/18/29	73712	"	71,300
5/20/29	74190	"	75,200
5/20/29	76956	"	74,400
5/24/29	76545	"	73,200
5/25/29	76521	"	71,100

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date	Car No.	Origin	Weight
[fol. 3048]			
5/29/29	A. C. L. 74195	"	85,400
5/29/29	71069	"	70,800
5/29/29	76997	"	78,000
5/30/29	75438	"	72,400
5/30/29	73952	"	81,600
5/31/29	73005	"	82,100
6/ 1/29	75188	"	82,000
6/ 5/29	75522	"	76,800
6/20/29	76813	"	72,100
6/22/29	76064	"	70,900
6/21/29	73988	"	70,100
6/25/29	76136	"	71,300
6/25/29	70355	"	70,300
6/25/29	76386	"	74,100
6/25/29	76363	"	83,600
6/25/29	73191	"	72,800
6/27/29	76906	"	72,900
7/13/29	76136	"	72,900
7/12/29	74339	"	73,400
7/18/29	76286	"	70,600
7/22/29	73874	"	75,400
7/22/29	73817	"	77,000
7/23/29	76136	"	75,600
7/23/29	73937	"	73,900
7/25/29	72610	"	70,900
7/26/29	76575	"	71,200
7/26/29	73895	"	72,000
7/29/29	76429	"	70,200
7/29/29	76471	"	71,400
7/31/29	76697	"	72,500
8/ 3/29	76136	"	70,100
8/ 3/29	74307	"	71,200
8/ 3/29	76047	"	78,200
8/ 3/29	76971	"	71,900
8/ 2/29	76710	"	86,600
8/ 2/29	75603	"	73,600
8/ 2/29	72804	"	74,100
8/ 3/29	76530	"	77,500
8/ 6/29	75690	"	73,600
8/ 6/29	76205	"	83,000
8/ 6/29	76662	"	82,500
8/ 5/29	76167	"	77,000
8/ 5/29	76492	"	80,400
8/ 7/29	73817	"	70,900
8/ 9/29	73363	"	73,800
8/10/29	76776	"	74,600
8/10/29	73065	"	77,800
[fol. 3049]			
8/13/29	76095	"	75,700
8/13/29	70311	"	74,300
8/15/29	74307	"	73,000
8/15/29	75515	"	82,600
8/15/29	74044	"	83,000
8/15/29	76530	"	78,200
8/15/29	76662	"	96,900
8/14/29	73995	"	77,600

Date	Car No.	Origin	Weight
8/14/29	A. C. L. 76971	Hines, Fla.	80,900
8/14/29	76891	"	71,200
8/17/29	75379	"	81,300
8/17/29	76136	"	72,300
8/22/29	76906	"	74,000
8/23/29	76110	"	77,500
8/23/29	73873	"	76,300
8/23/29	73097	"	75,700
8/15/29	76257	"	78,100
9/24/29	76151	"	71,600
9/24/29	76226	"	71,400
9/24/29	76490	"	75,600
9/24/29	74188	"	81,500
9/24/29	76198	"	73,500
9/24/29	73874	"	74,800
9/24/29	73840	"	73,100
9/24/29	74068	"	72,300
9/24/29	74317	"	71,100
9/24/29	76257	"	70,500
9/24/29	74339	"	70,300
9/24/29	76110	"	70,700
9/24/29	76835	"	70,400
9/24/29	76047	"	70,000
9/24/29	73817	"	71,400
9/24/29	76502	"	75,800
9/24/29	76471	"	72,200
9/26/29	76776	"	70,700
9/26/29	76123	"	71,100
9/26/29	76467	"	82,100
9/26/29	76136	"	73,500
9/26/29	74316	"	72,800
9/26/29	76592	"	73,100
9/26/29	76321	"	71,000
9/26/29	76860	"	71,100
9/28/29	73835	"	71,100
9/28/29	73817	"	76,900
9/28/29	76800	"	74,000
9/28/29	73874	"	70,100
9/28/29	76755	"	78,800
[fol. 3050]			
10/ 1/29	74316	"	74,300
10/ 1/29	76656	"	80,300
10/ 1/29	76860	"	71,000
10/ 1/29	76592	"	73,300
10/ 1/29	76906	"	82,200
10/ 1/29	76671	"	70,100
10/ 1/29	76167	"	75,200
10/ 1/29	76123	"	77,700
10/ 1/29	76697	"	73,900
10/ 1/29	74047	"	85,300
10/ 1/29	73840	"	72,800
10/ 3/29	76432	"	73,600
10/ 3/29	76176	"	72,900
10/ 3/29	76502	"	71,300
10/ 3/29	76479	"	73,900
10/ 3/29	76517	"	72,400
10/ 3/29	76471	"	74,600
10/ 3/29	74154	"	70,400
10/ 3/29	76860	"	71,000
10/ 5/29	73895	"	73,700
10/ 5/29	76122	"	72,200
10/ 5/29	76226	"	74,200
10/ 5/29	73976	"	76,600
10/ 5/29	76708	"	70,800
10/ 5/29	76656	"	74,900
10/ 5/29	76923	"	70,100

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwsie Shown

Date	Car No.	Origin	Weight
10/ 5/29	A. C. L. 76136	Hines, Fla.	73,100
10/ 5/29	73863	"	73,900
10/ 5/29	76568	"	73,700
10/ 5/29	76971	"	70,100
10/ 5/29	76776	"	74,700
10/ 8/29	75424	"	74,800
10/ 8/29	76688	"	77,900
10/ 8/29	74109	"	84,100
10/ 8/29	76832	"	72,100
10/ 8/29	76019	"	83,000
10/ 8/29	76599	"	73,700
10/ 8/29	76594	"	73,300
10/ 8/29	76852	"	80,000
10/ 8/29	74362	"	81,500
10/ 8/29	76267	"	71,300
10/ 8/29	76564	"	71,900
10/ 8/29	73937	"	75,900
10/ 8/29	76755	"	74,600
10/10/29	76471	"	74,000
10/10/29	76178	"	72,100
10/10/29	76502	"	73,400
10/10/29	76479	"	70,800
10/10/29	76136	"	70,000
[fol. 3051]			
10/10/29	73810	"	72,900
10/10/29	76598	"	70,200
10/10/29	76182	"	72,100
10/10/29	73895	"	88,400
10/10/29	76981	"	75,600
10/10/29	73932	"	72,700
10/10/29	76123	"	75,500
10/10/29	76697	"	74,100
10/10/29	73796	"	75,300
10/12/29	76688	"	81,600
10/12/29	76594	"	79,500
10/12/29	76923	"	75,900
10/12/29	76886	"	72,300
10/12/29	74109	"	81,100
10/12/29	73864	"	74,900
10/12/29	76599	"	70,800
10/12/29	76262	"	70,700
10/12/29	76467	"	70,100
10/12/29	76019	"	73,600
10/12/29	76764	"	71,900
10/15/29	76136	"	73,800
10/15/29	76860	"	72,900
10/15/29	76502	"	72,600
[fol. 3052]			
10/15/29	76492	"	78,200
10/17/29	73863	"	70,200
10/17/29	74316	"	72,300
10/17/29	76592	"	71,100
10/17/29	76564	"	70,300
10/17/29	76796	"	71,500
10/17/29	76178	"	75,100
10/19/29	76697	"	79,600
10/19/29	74235	"	73,000

Date	Car No.	Origin	Weight
10/19/29	A. C. L. 76365	Hines, Fla.	87,800
10/19/29	73817	"	89,400
10/19/29	76262	"	92,600
10/17/29	76818	"	80,100
10/17/29	76599	"	73,400
10/17/29	74068	"	75,400
10/17/29	76801	"	78,000
10/22/29	76038	"	72,300
10/22/29	76182	"	77,700
10/22/29	76598	"	72,800
10/22/29	76257	"	77,300
10/22/29	73875	"	77,600
10/22/29	76820	"	71,300
10/22/29	76776	"	72,300
10/22/29	74362	"	74,700
10/22/29	76981	"	70,300
10/22/29	76947	"	73,200
10/22/29	76971	"	72,400
10/22/29	76502	"	70,400
10/22/29	76226	"	71,800
10/22/29	76656	"	75,800
10/24/29	76852	"	73,100
10/24/29	76422	"	75,600
10/24/29	76151	"	72,100
10/24/29	76764	"	71,500
10/24/29	76167	"	71,500
10/24/29	76136	"	73,500
10/24/29	76094	"	74,900
10/24/29	76832	"	71,400
10/24/29	73817	"	71,600
10/26/29	76613	"	72,800
10/26/29	73976	"	75,700
10/26/29	76375	"	76,400
10/26/29	74123	"	74,800

[fol. 3053]

10/26/29	76262	"	84,200
10/26/29	76710	"	74,600
10/26/29	76742	"	75,200
10/26/29	76502	"	72,700
10/29/29	74175	"	76,000
10/29/29	74130	"	74,300
10/29/29	76755	"	71,800
10/29/29	74294	"	84,500
10/29/29	74267	"	75,200
10/29/29	76708	"	74,700
10/29/29	76226	"	73,100
10/29/29	76471	"	74,700
10/31/29	76429	"	72,800
10/31/29	76798	"	81,100
10/31/29	74322	"	79,200
10/31/29	76502	"	75,900
10/31/29	73976	"	78,700
10/31/29	76818	"	77,900
10/31/29	76375	"	76,200
10/31/29	74235	"	85,400
10/31/29	76467	"	73,000
10/31/29	76310	"	77,100
10/31/29	76592	"	77,500
10/31/29	76854	"	74,700
10/31/29	73998	"	77,200
10/31/29	74123	"	88,300
11/ 2/29	76042	"	75,000
11/ 2/29	76658	"	71,400
11/ 2/29	74130	"	71,500

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date	Car No.	Origin	Weight
11/ 2/29	A. C L. 73864	Hines, Fla.	71,400
11/ 2/29	73895	"	72,300
11/ 2/29	76710	"	77,200
11/ 2/29	76471	"	70,700
11/ 2/29	76517	"	73,900
11/ 5/29	76151	"	70,900
11/ 5/29	74123	"	79,800
11/ 5/29	73998	"	78,900
11/ 5/29	76375	"	73,900
11/ 5/29	76854	"	72,000
11/ 5/29	76432	"	71,200
11/ 7/29	76517	"	70,200
11/ 7/29	76492	"	71,000
11/ 7/29	73932	"	70,400
11/ 7/29	76852	"	74,100

[fol. 3054]

11/ 7/29	73908	"	76,900
11/ 7/29	74175	"	77,400
11/ 7/29	76139	"	72,800
11/ 7/29	76594	"	71,400
11/ 9/29	76833	"	73,400
11/ 9/29	76036	"	73,300
11/ 9/29	74154	"	77,000
11/ 9/29	73840	"	70,200
11/ 9/29	76178	"	79,800
11/ 9/29	76981	"	84,300
11/12/29	74139	"	71,600
11/12/29	76871	"	71,900
11/14/29	76592	"	76,800
11/14/29	76151	"	74,800
11/14/29	76182	"	70,600
11/14/29	76262	"	79,800
11/14/29	76710	"	81,000
11/16/29	76123	"	70,000
11/16/29	74235	"	71,200
11/19/29	76375	"	70,900
11/23/29	76820	"	78,200
11/26/29	74204	"	78,100
11/26/29	73936	"	73,200
11/26/29	76517	"	70,600
11/ 2 /29	76658	"	73,400
11/26/29	76262	"	72,200
11/20/29	76835	"	70,100
11/20/29	76854	"	76,500
11/20/29	76599	"	74,500
11/20/29	76592	"	83,600
11/20/29	76776	"	70,500
12/ 3/29	76697	"	71,200
12/ 3/29	76432	"	73,700
12/ 3/29	76339	"	80,900
12/ 3/29	73976	"	74,200

[fol. 3055]

12/ 5/29	76479	"	72,000
12/ 5/29	76796	"	71,600
12/ 5/29	74330	"	70,400
12/ 5/29	76364	"	70,400

Date	Car No.	Origin	Weight
12/ 7/29	A. C. L. 76182	Hines, Fla.	72,400
12/ 9/29	76594	"	78,200
12/10/29	76820	"	75,400
12/12/29	73751	"	71,400
12/12/29	74330	"	70,700
12/12/29	74188	"	71,400
12/12/29	76800	"	70,300
12/12/29	76136	"	72,100
12/14/29	73864	"	72,700
12/14/29	76854	"	72,300
12/17/29	76658	"	70,500
12/21/29	76568	"	70,100
12/21/29	73998	"	74,800
12/21/29	76064	"	73,900
1/ 7/30	76854	"	76,500
1/11/30	74111	"	70,000
1/11/30	74294	"	77,700
1/11/30	76833	"	73,400
1/11/30	76971	"	71,000
1/21/30	76706	"	71,100
2/ 1/30	76364	"	70,100
2/ 4/30	76226	"	70,700
2/ 8/30	73976	"	71,100
2/13/30	76375	"	75,000
2/13/30	73888	"	70,700
2/18/30	76519	"	71,900

[fol. 3056]

2/22/30	73929	"	71,400
2/22/30	76167	"	70,200
2/22/30	76134	"	77,600
2/25/30	76007	"	88,300
3/ 4/30	76854	"	70,300
3/ 6/30	76594	"	70,800
3/ 8/30	76123	"	72,800
3/ 8/30	76564	"	72,800
3/ 8/30	76801	"	71,200
3/ 8/30	76732	"	75,200
3/ 8/30	76599	"	74,500
3/ 8/30	73976	"	78,600
3/ 8/30	73937	"	76,100
3/11/30	76310	"	70,200
3/11/30	74322	"	71,900
3/11/30	76024	"	72,800
3/11/30	76594	"	73,300
3/13/30	76852	"	71,900
3/15/30	76800	"	70,100
3/15/30	74068	"	82,600
3/15/30	76581	"	75,500
3/15/30	76776	"	76,200
3/15/30	76257	"	70,400
3/18/30	76599	"	73,400
3/18/30	74012	"	72,700
3/18/30	73909	"	76,700
3/20/30	74278	"	75,000
3/20/30	73976	"	70,700
3/20/30	76492	"	70,600
3/22/30	76490	"	77,000
3/22/30	76182	"	70,400
3/22/30	76134	"	71,500
3/22/30	74356	"	74,300
3/22/30	74231	"	70,800
3/22/30	76047	"	80,900

[fol. 3057]

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date		Car No.	Origin	Weight
3 25 30	A. C. L.	73826	Hines, Fla.	74,500
3 5 30		76262	"	72,200
3 25 30		76429	"	78,200
3 25 30		74346	"	78,900
3 25 30		74317	"	73,500
3 25 30		73929	"	79,500
3 25 30		76886	"	71,100
3 27 30		76539	"	80,400
3 27 30		73936	"	73,100
3 27 30		74316	"	71,400
3 27 30		76564	"	70,900
3 27 30		73998	"	71,300
3 27 30		76801	"	72,200
3 29 30		76024	"	70,800
3 20 30		76592	"	70,800
3 20 30		76764	"	70,500
4 1 30		76321	"	74,000
4 1 30		74278	"	76,100
4 1 30		74316	"	73,200
4 1 30		73908	"	72,200
4 1 30		76860	"	72,600
4 1 30		76854	"	75,800
4 1 30		74130	"	72,800
4 3 30		76852	"	82,500
4 3 30		73956	"	73,100
4 3 30		76697	"	73,400
4 3 30		76422	"	78,500
4 3 30		76539	"	80,900
4 3 30		74231	"	71,300
4 3 30		76658	"	70,300
4 3 30		76707	"	71,400
4 3 30		76042	"	71,600
4 5 30		76739	"	73,600
4 5 30		76595	"	73,700
4 5 30		76832	"	75,200
4 5 30		76226	"	74,600
4 5 30		73937	"	72,300
4 5 30		76798	"	74,100
4 5 30		76564	"	76,700
4 5 30		76476	"	70,100
4 8 30		76592	"	77,200
4 8 30		73888	"	71,800
4 8 30		76619	"	73,900
4 8 30		76906	"	76,800
4 8 30		73909	"	72,000
4 8 30		76606	"	80,100

[fol. 3058]

4 10 30		76732	"	74,100
4 10 30		73908	"	77,700
4 10 30		76136	"	75,700
4 10 30		76047	"	71,200
4 10 30		74278	"	72,700
4 10 30		76764	"	75,600
4 12 30		76119	"	73,900
4 12 30		76736	"	70,500
4 12 30		76502	"	73,800
4 12 30		76742	"	72,100

Date		Car No.	Origin	Weight
4/12/30	A. C. L.	74362	Hines, Fla.	76,700
4/12/30		73874	"	71,900
4/12/30		76364	"	79,200
4/12/30		74012	"	70,200
4/12/30		73888	"	70,000
4/12/30		76832	"	70,100
4/12/30		76568	"	76,300
4/12/30		76257	"	76,800
4/12/30		76710	"	72,700
4/15/30		74111	"	74,000
4/15/30		76167	"	71,200
4/15/30		76801	"	73,100
4/15/30		74330	"	70,900
4/15/30		76432	"	75,700
4/15/30		76539	"	70,200
4/15/30		76436	"	74,800
4/15/30		73937	"	77,600
4/15/30		76800	"	72,000
4/15/30		76324	"	73,800
4/15/30		76708	"	73,300
4/15/30		74130	"	74,600
4/15/30		76818	"	72,700
4/15/30		73976	"	70,600
4/15/30		76599	"	80,300
4/17/30		74362	"	81,400
4/17/30		76606	"	77,600
4/17/30		73908	"	83,600
4/17/30		76007	"	76,800
4/17/30		74012	"	71,100
4/17/30		74294	"	72,900
4/17/30		73909	"	70,700
4/17/30		76440	"	80,400
4/17/30		74154	"	74,000
4/17/30		76339	"	78,200
4/17/30		76302	"	74,600
4/19/30		76257	"	73,500
4/19/30		76594	"	70,600
4/19/30		76134	"	75,900
4/19/30		76502	"	83,700

[fol. 3059]

4/19/30		76835	"	76,700
"		76141	"	74,200
"		76708	"	74,800
"		74130	"	73,000
4/19/30		76706	"	71,500
4/22/30		74188	"	81,700
"		76310	"	74,200
"		76364	"	75,100
"		76617	"	73,200
"		75732	"	71,100
"		76007	"	72,600
4/22/30		74356	"	72,100
"		76568	"	74,200
"		73908	"	73,800
"		74322	"	73,000
"		76440	"	72,400
"		76742	"	72,100
"		76226	"	81,000
"		76519	"	72,000
"		76432	"	79,000
"		76276	"	71,300
"		76818	"	72,500
"		76490	"	70,800
4/24/30		74278	"	71,100
4/24/30		76800	"	73,500

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date	Car No:	Origin	Weight
"	A. C. L. 76024	Hines, Fla.	70,300
"	74154	"	84,800
"	74330	"	77,900
"	76119	"	75,900
"	76154	"	75,800
4/26/30	73835	"	76,900
"	76429	"	76,700
"	76671	"	74,700
"	74175	"	71,100
"	74362	"	71,500
4/29/30	73817	"	70,200
"	76119	"	73,600
"	74278	"	76,000
"	76134	"	71,800
"	76479	"	75,200
"	76599	"	71,100
5/1/30	74362	"	70,700
"	76798	"	70,900
"	73909	"	78,800
"	76007	"	72,600
"	76736	"	70,000
"	73932	"	71,400
"	76739	"	75,800

[fol. 3060]

4/28/30	76422	"	84,100
"	76594	"	73,800
"	76110	"	71,100
"	76710	"	70,200
"	76755	"	74,400
"	74231	"	76,700
"	76151	"	71,900
5/3/30	76310	"	78,500
"	74231	"	70,700
"	76151	"	72,200
"	74129	"	71,600
"	74175	"	71,300
"	74356	"	73,900
"	73883	"	78,600
"	74130	"	78,900
"	74316	"	70,500
"	74111	"	70,400
"	76923	"	75,100
"	74141	"	70,200
"	76658	"	70,700
5/6/30	76339	"	77,000
"	76042	"	78,100
"	74188	"	82,700
"	73976	"	72,900
5/8/30	73840	"	74,600
"	76198	"	72,600
"	76467	"	71,500
"	76471	"	71,400
"	76801	"	75,800
"	76321	"	76,400
"	74231	"	71,800
5/6/30	74362	"	72,400
"	76302	"	77,800
"	73988	"	77,100
"	76007	"	72,000

Date	Car No.	Origin	Weight
5/13/30	A. C. L. 76375	Hines, Fla.	72,200
"	76686	"	72,600
"	76042	"	75,100
"	76479	"	81,200
"	76697	"	73,000
5/15/30	76796	"	72,800
"	74362	"	70,800
"	74330	"	74,200

[fol. 3060a]

5/15/30	76519	"	71,100
"	76755	"	81,600
"	74294	"	70,400
"	76151	"	81,800
"	76801	"	70,100
"	76007	"	73,600
"	74278	"	73,000
"	76364	"	73,700
5/17/30	76517	"	72,600
"	74339	"	70,100
"	76860	"	84,900
"	76707	"	75,200
"	76708	"	76,300
"	76490	"	71,800
"	74111	"	71,500
"	76908	"	71,800
"	76467	"	102,100
"	76619	"	71,400
5/20/30	74316	"	71,400
"	76007	"	75,600
"	76755	"	72,500
"	76801	"	76,000
5/22/29	72473	"	98,300
5/25/29	72229	"	91,700
5/30/29	76282	"	77,400
6/19/29	73107	"	70,100
6/25/29	74363	"	73,700

[fol. 3061]

6/19/29	73107	"	70,100
11/28/29	76047	"	73,600
11/28/29	73835	"	70,400
11/28/29	74330	"	73,200
7/23/29	76835	"	83,138
9/13/29	75449	"	70,500
9/14/29	75621	"	76,300
9/18/29	75578	"	80,100
9/19/29	74254	"	74,500
9/20/29	75442	"	79,700
9/27/29	73666	"	78,300
11/ 7/29	76274	"	73,300
11/15/29	72495	"	72,600
9/20/29	75442	"	79,700
9/18/29	75578	"	80,100
9/14/29	75621	"	76,300
11/19/29	72563	"	72,600
11/20/29	76134	"	74,200
11/20/29	73116	"	77,600
11/20/29	74368	"	81,800
11/20/29	73142	"	91,400
11/20/29	72618	"	79,300
11/19/29	73712	"	78,400
11/22/29	73899	"	71,800

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date	Car No.	Origin	Weight
11/22/29	A. C. L. 73145	Hines, Fla.	78,300
11/22/29	76038	"	75,400
11/22/29	76094	"	80,500
11/ 7/29	72479	"	88,300
11/ 7/29	75100	"	86,300
11/13/29	76688	"	93,100
11/13/29	75078	"	89,400
11/13/29	72314	"	83,100
11/28/29	73627	"	92,800
11/23/29	75413	"	75,600
11/23/29	72787	"	86,700
11/13/29	73908	"	98,300
11/29/29	76096	"	94,800
11/29/29	73122	"	84,800
11/29/29	72248	"	79,200
11/29/29	72591 76182	"	173,600
[fol. 3062]			
11/30/29	73192	"	94,200
11/30/29	75384	"	89,100
11/30/29	72730	"	85,900
11/30/29	76301	"	95,900
11/30/29	72769	"	77,400
11/30/29	72153	"	82,900
12/ 2/29	74354	"	76,200
12/ 2/29	73216	"	80,500
12/ 3/29	72061	"	81,000
12/ 3/29	76887	"	76,000
12/ 2/29	74012	"	80,500
12/ 5/29	70358	"	78,600
12/ 5/29	72446	"	74,100
12/ 5/29	72496	"	85,300
12/ 5/29	72587	"	80,400
12/ 5/29	73384	"	80,900
12/ 5/29	75126	"	73,100
12/ 7/29	73363	"	75,000
12/ 7/29	73754	"	78,100
12/ 7/29	75272	"	76,300
12/ 7/29	72186	"	70,500
12/ 9/29	72117	"	74,400
12/ 9/29	76012	"	76,500
12/ 6/29	73283	"	76,400
12/ 7/29	76856	"	73,400
"	74204	"	78,300
12/10/29	75117	"	72,000
12/11/29	76828	"	77,800
12/11/29	72787	"	70,000
"	76580	"	73,800
"	74321	"	78,500
"	37899	"	75,600
"	72424	"	76,400
"	70311	"	75,800
12/10/29	72521	"	70,500
12/12/29	72506	"	70,000
"	72626	"	76,000
"	73445	"	80,300
12/13/29	76858	"	80,600
"	73402	"	87,300
"	73222	"	71,400
"	76871	"	70,300
12/14/29	75532	"	82,000

[fol. 3063]

Date	Car No.	Origin	Weight
12/14/29	A. C. L. 75234	Hines, Fla.	81,500
"	75698	"	82,100
"	73671	"	76,400
"	76519	"	79,600
"	76061	"	81,800
12/16/29	75130	"	83,600
"	73008	"	82,800
"	72037	"	80,300
"	73625	"	78,700
"	73086	"	77,500
"	76058	"	80,900
12/17/29	72283	"	77,400
"	73115	"	78,000
"	72248	"	74,200
12/21/29	72486	"	78,500
12/18/29	74377	"	77,400
"	73170	"	70,700
"	73975	"	81,700
"	73924	"	76,100
"	73131	"	72,800
12/19/29	72849	"	85,900
12/19/29	72893	"	70,000
12/20/29	72890	"	75,100
12/21/29	76521	"	72,200
12/23/29	75486	"	72,800
"	75618	"	70,600
"	73228	"	70,900
1/ 1/30	74278	"	70,700
"	73975	"	74,500
1/ 2/30	74149	"	70,100
"	72034	"	76,000
1/ 3/30	72626	"	70,100
1/ 7/30	72175	"	77,200
1/ 7/30	72282	"	80,200
1/ 6/30	75285	"	81,900
1/ 8/30	6374	"	71,600
1/ 8/30	75234	"	77,100
"	72570	"	81,000
"	6234	"	79,900
1/ 9/30	73461	"	76,300
1/11/30	76094	"	92,600
	73187	"	70,700

[fol. 3064]

1/13/30	75256	"	75,200
"	73406	"	81,600
1/11/30	72375	"	72,500
"	75553	"	75,000
"	72624	"	73,500
1/14/30	75649	"	71,600
"	73309	"	73,300
1/15/30	6823	"	73,200
1/16/30	72674	"	75,500
"	75151	"	75,400
"	74204	"	81,000
1/17/30	73394	"	73,700
1/15/30	73616	"	73,900
1/18/30	75316	"	75,200
1/20/30	73135	"	85,300
1/22/30	73363	"	71,700
"	75472	"	75,200
	74353	"	75,200

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date of Shipment	Car No.	Origin	Weight
"	A. C. L. 72132	Hines, Fla.	74,700
1/22/30	72527	"	80,500
"	73793	"	83,500
"	6435	"	87,000
1/23/30	72618	"	71,000
"	75533	"	85,100
1/24/30	75463	"	72,400
1/25/30	70050	"	71,500
"	75310	"	74,200
1/27/30	76359	"	72,400
"	76191	"	81,100
"	75212	"	72,800
1/28/30	72004	"	70,400
1/29/30	73712	"	83,300
"	73734	"	73,100
1/28/30	74107	"	74,700
"	72138	"	83,000
"	76640	"	74,300
"	76263	"	74,700
1/29/30	73100	"	74,400
1/31/30	72269	"	70,000
"	72500	"	71,700
2/1/30	75472	"	73,300
"	72798	"	80,000
"	72509	"	74,100
2/4/30	73135	"	77,800
"	75239	"	86,200
"	73447	"	81,300

[fol. 3065]

2/5/30	72600	"	75,800
"	75387	"	73,500
"	72678	"	71,200
2/3/30	75548	"	74,700
2/3/30	73050	"	71,500
2/6/30	72375	"	79,900
"	73420	"	70,900
"	76640	"	75,700
"	76263	"	73,300
"	73100	"	78,000
"	76359	"	84,300
"	73407	"	80,800
2/7/30	75345	"	72,300
"	72081	"	83,500
"	73959	"	79,000
"	75538	"	70,300
2/8/30	73234	"	76,300
"	72024	"	71,200
2/10/30	75235	"	76,700
"	72527	"	80,700
2/12/30	75009	"	81,500
"	76733	"	78,700
2/13/30	73975	"	80,500
"	72486	"	74,700
"	75134	"	71,600
2/15/30	73645	"	83,300
2/14/30	75208	"	85,300
"	73270	"	83,200

Date	Car No.	Origin	Weight
2/15/30	A. C. L. 74017	Hirles, Fla.	71,300
"	75279	"	73,400
"	72024	"	72,500
"	75367	"	74,800
"	75080	"	74,400
2/17/30	73432	"	73,800
2/18/30	76191	"	74,300
2/18/30	72628	"	80,400
2/19/30	73999	"	72,800
"	74353	"	75,100
	72375		70,900
[fol. 3066]			
2/20/30	76435	"	74,700
2/22/30	75546	"	77,800
"	72328	"	71,000
"	72339	"	72,700
2/26/30	73010	"	70,100
"	72540	"	83,500
"	72530	"	76,500
2/27/30	76544	"	89,200
"	5807	"	81,100
3/ 1/30	76856	"	82,500
"	76579	"	78,000
2/28/30	72983	"	72,500
3/ 4/30	73806	"	78,200
"	75548	"	78,100
"	75693	"	73,400
"	72488	"	71,300
"	73360	"	78,000
3/ 5/30	72917	"	78,000
3/ 6/30	75094	"	72,100
"	72967	"	71,700
3/ 7/30	72260	"	71,600
"	73308	"	70,100
"	72763	"	75,700
3/ 8/30	72479	"	71,400
"	72570	"	72,500
3/10/30	5797	"	77,300
3/10/30	73359	"	79,500
"	72025	"	76,000
3/11/30	75274	"	78,600
"	72917	"	70,400
"	72229	"	82,600
"	74221	"	82,200
"	72967	"	71,200
"	75532	"	74,500
"	73324	"	73,400
3/12/30	6881	"	70,000
"	72434	"	75,400
"	72381	"	81,900
"	72488	"	73,200
3/13/30	72875	"	74,900
[fol. 3067]	75176	"	74,600
3/14/30	72147	"	74,000
"	72628	"	74,000
"	73959	"	80,200
	75274	"	74,600
	72917	"	73,300
	72025	"	77,100
	72509	"	

Shipments to Wilson Cypress Company of Palatka, Florida, of Over 70,000 Pounds Included in Restitution Claim

Destination Palatka Unless Otherwise Shown

Date	Car No.	Origin	Weight
3/14/30	A. C. L. 75115	Hines, Fla.	79,500
"	72074	"	101,500
"	73097	"	76,100
3/17/30	75235	"	72,200
"	72105	"	70,500
"	75393	"	78,400
"	75227	"	83,900
"	76522	"	82,400
3/18/30	76725	"	71,500
"	75018	"	78,500
3/20/30	75384	"	74,500
"	73782	"	77,200
"	75579	"	77,100
"	72620	"	70,900
3/27/30	72095	"	73,500
3/31/30	73627	"	83,300
3/31/30	72313	"	78,100
4/2/30	76904	"	72,800
4/12/30	5807	"	79,800
4/16/30	75481	"	82,900
"	72639	"	82,700
"	70233	"	82,300
4/16/30	73391	"	75,800
"	73397	"	78,900
4/19/30	75624	"	78,800
4/18/30	72479	"	73,100
4/19/30	76999	"	73,400
4/22/30	73359	"	93,800
"	72629	"	76,200
"	75001	"	80,900
"	75234	"	86,500
4/24/30	73055	"	81,300
4/30/30	72752	"	94,600
5/7/30	75635	"	70,300
"	72601	"	71,700
5/14/30	76630	"	75,700
"	72989	"	80,400
"	72123	"	70,500

[fol. 3068]

5/30/30	73983	"	70,500
"	73391	"	70,300
6/10/30	75129	"	71,200
"	74393	"	75,000
"	73297	"	79,800
6/11/30	75474	"	71,800
6/23/30	72531	"	73,200

[fol. 3069] EXHIBIT NO. 144

Wilson Cypress Company—Month of November, 1929

Pine Logs

Statement of Log Movement—Hines to Cross City, Florida

Pro. No.	Date of shipment	Total weight	Total amount charged	Excess charged
7165	11/5/29	56,600	14.15	....
7166	11/5/29	65,700	16.88	....
7204	11/7/29	73,300	18.33	....
7217	11/8/29	65,800	16.45	....
7242	11/9/29	54,900	13.73	....
7356	11/14/29	54,800	13.70	....
7357	11/15/29	72,600	19.80	1.65
7358	11/14/29	57,600	14.40	....
7363	11/20/29	79,700	23.35	3.42
7364	11/18/29	80,100	23.55	3.52
7365	11/14/29	76,300	21.65	2.57
7367 (2 cars)	11/29/29	173,600	48.30	4.90
7392	11/16/29	55,500	13.88	....
7393	11/19/29	72,660	19.83	1.66
7422	11/20/29	74,200	18.55	....
7423	11/20/29	77,600	22.30	2.90
7424	11/20/29	59,400	14.85	....
7425	11/20/29	81,800	20.45	....
7426	11/20/29	91,400	29.20	6.35
7427	11/20/29	79,300	23.15	3.32
7428	11/19/29	78,400	19.60	....
7459	11/22/29	68,400	17.10	....
7460	11/22/29	69,000	17.25	....
7461	11/22/29	71,800	17.95	....
7462	11/22/29	78,300	22.65	3.07
7463	11/22/29	75,400	18.85	....
7464	11/22/29	80,500	20.13	....
7486	11/7/29	88,300	27.65	5.58
7487	11/7/29	86,300	26.65	5.08
7568	11/28/29	65,100	16.28	....
7560	11/13/29	67,900	17.45	.48
7561	11/13/29	93,100	24.55	1.27
7562	11/13/29	89,400	28.20	5.85
7563	11/13/29	83,100	25.05	4.27
7569	11/28/29	65,200	16.30	....
7570	11/28/29	65,600	16.40	....
7571	11/28/29	92,800	29.90	6.70
7572	11/29/29	60,300	15.08	....
7573	11/23/29	75,600	21.30	2.40
7574	11/23/29	86,700	26.85	5.17
7576	11/13/29	98,300	27.15	2.57
7605	11/29/29	94,800	25.40	1.70
7606	11/29/29	84,800	25.90	4.70
7607	11/29/29	79,200	23.10	3.30
7673	11/30/29	94,200	30.60	7.05
7674	11/30/29	89,100	28.05	5.77
7675	11.30.29	85,900	26.20	4.85
7676	11/30/29	95,900	25.95	1.97
7677	11/30/29	77,400	22.20	2.85
7678	11/30/29	82,900	24.95	4.22
		3,926,560	$1,091.19	109.14

Average weight per car for month of November, 1929—76,991.37 pounds.

[fol. 3070]

TRUE EXHIBIT 145

Docket 18364

Shipment of Over 70,000 Pounds to Putnam Lumber Co. (Cross City, Florida)

Date	Origin	Car No.	Weight	Date	Origin	Car No.	Weight
11/1/30	Otter Creek	A.C.L.91894	70,000	9/30/30	Carbur	A.C.L.74426	71,400
2/12/31	"	" 92980	70,400	10/1	"	" 74411	78,800
2/26/31	"	" 91504	72,400	"	"	" 74424	83,000
2/19/31	Secotan	" 91344	72,200	10/3	"	" 74418	79,400
10/27/30	Lebanon	" 91129	73,300	10/4	"	" 74427	70,000
10/25/30	"	" 92310	70,000	"	"	" 74432	84,600
9/3/30	Carbur	" 74454	73,700	"	"	" 74445	71,800
9/4/30	"	" 74441	73,400	10/8	"	" 74420	76,600
9/5/30	"	" 74464	75,300	"	"	" 74403	71,700
9/9/30	"	" 74483	70,500	"	"	" 74416	74,000
"	"	" 74425	70,000	10/9	"	" 74493	78,300
9/11/30	"	" 74451	76,300	"	"	" 74441	72,000
9/12/30	"	" 74426	72,400	10/10	"	" 74464	82,600
9/15/30	"	" 74489	83,900	"	"	" 74424	73,800
9/16/30	"	" 74495	81,800	"	"	" 74465	70,100
"	"	" 74424	85,600	"	"	" 74465	70,900
9/17/30	"	" 74492	73,300	10/13	"	" 74425	72,500
9/19/30	"	" 72200	72,200	10/14	"	" 74461	73,700
9/18/30	"	" 74481	72,100	10/16	"	" 74465	72,300
"	"	" 74427	73,900	"	"	" 76632	74,380
9/19/30	"	" 74422	74,200	10/18	"	" 74400	86,000
9/20/30	"	" 74424	81,000	"	"	" 74495	80,200
9/23/30	"	" 74407	72,200	10/24	"	" 74482	84,900
"	"	" 74488	73,600	10/25	"	" 74464	70,100
"	"	" 74427	71,100	10/27	"	" 74488	80,000
"	"	" 74454	76,500	"	"	" 74426	79,200
9/24/30	"	" 74441	70,300	"	"	" 74432	78,000
9/25/30	"	" 74414	76,500	"	"	" 74425	83,700
"	"	" 74465	83,700	10/28	"	" 74413	78,700
"	"	" 74426	76,300	"	"	" 74466	87,600
9/26/30	"	" 74411	74,700	"	"	" 74477	87,200
9/27/30	"	" 74437	74,800	"	"	" 75462	82,300
"	"	" 74483	70,800	"	"	" 74471	75,400
10/29/30	"	" 74441	75,700	10/4/30	"	" 74458	92,700
10/31/30	"	" 74431	79,200	10/8	"	" 74400	88,300
"	"	" 74407	71,200	"	"	" 74492	95,100
"	"	" 74429	84,200	10/10	"	" 74475	97,300
"	"	" 74454	77,800	9/27	"	" 74488	93,000
"	"	" 74462	71,500	10/15	"	" 74482	94,900
"	"	" 74425	78,800	"	"	" 74483	93,100
"	"	" 74471	85,500	10/18	"	" 74418	92,200
11/4	"	" 74425	72,400	"	"	" 74458	93,200
"	"	" 74467	73,900	10/27	"	" 74414	96,800
"	"	" 74462	84,200	10/28	"	" 74476	115,900
"	"	" 74424	80,400	10/8	"	" 74415	90,100
11/5	"	" 74476	75,600	11/11	"	" 74437	88,200
"	"	" 74471	81,500	3/19/31	Secotan.	" 90894	70,000
[fol. 3071]							
11/8	"	" 71500	71,500				
11/10	"	" 74467	73,700				
11/11	"	" 74447	72,100				
"	"	" 74415	74,900				
11/12	"	" 74411	71,100				
"	"	" 74483	77,800				
"	"	" 74424	78,300				
"	"	" 71300	71,300				

Docket 18364

Shipment of Over 70,000 Pounds to Putnam Lumber Co. (Cross City, Florida)

Date	Origin	Car No.	Weight	Date	Origin	Car No.	Weight
11/14	"	" 74424	78,300				
11/15	"	" 70000	70,000				
"	"	" 74475	76,400				
"	"	" 74441	82,400				
11/17	"	" 74489	72,200				
"	"	" 74461	76,400				
9/13/30	"	" 74407	91,500				
9/19/30	"	" 74400	94,300				
9/23/30	"	" 74461	95,700				
10/1/30	"	" 74445	91,000				
10/2/30	"	" 74449	106,600	107 Cars from Carbur out of a total movement of 589 cars weighed over 70,000 pounds.			
"	"	" 74483	90,400				

[fol. 3072] EXHIBIT No. 149

Southern Hardwood Traffic Association, 1323-41 Bank of Commerce Bldg.

Annual Shipments Over 500,000 Cars

March 30, 1932.

Memorandum of Rough Material Rates agreed upon between Shippers and Carriers at Joint Conference Called by Southern Hardwood Traffic Association, Albert Pike Hotel, Little Rock, Arkansas, Tuesday, March 29, 1932

Representation

Mr. L. R. Steidel, Hamlen Stave Company, Little Rock, Ark.

Mr. Maury Jenkins, Hudson & Dugger Company, Little Rock, Ark.

Mr. Willard Wrape, Wrape Stave Company, Little Rock, Ark.

Mr. E. R. Norton, Norton-Wheeler Stave Co., Pine Bluff, Ark.

Mr. Wm. M. Dumph, Little Rock, Ark.

Mr. W. W. Roberts, Wilson Stave Company, Little Rock, Ark.

Mr. J. C. Murray, Little Rock Chamber of Commerce, Little Rock, Ark.

Mr. F. T. Dooley, Pres., Southern Hardwood Traffic Assn. Memphis, T.

Mr. C. A. Now, A. S. M., Southern Hardwood Traffic Assn. Memphis, T.

Carriers:

Mr. D. R. Lincoln, F. T. N., Missouri Pacific Railroad Co., St. Louis, Mo.

Mr. H. R. Wilson, G. F. A., Missouri Pacific Railroad Co., Little Rock, Ark.

Mr. J. R. Staley, A. G. F. A., Missouri Pacific Railroad Co., St. Louis, Mo.

Mr. G. E. Schnitzer, G. F. A., Chicago, Rock Island & Pacific Ry., Little Rock, Ark.

Mr. H. D. Agnew, G. T. M., Missouri & North Arkansas Ry., Harrison, Ark.

Mr. A. J. Leber, A. G. T. A., St. Louis Southwestern Ry., St. Louis, Mo.

Mr. Frank Pattie, A. G. F. & P. A., St. Louis Southwestern Ry., Little Rock, Ark.

Mr. H. P. Norden, A. G. F. A., St. Louis-San Francisco Ry., St. Louis, Mo.

The carriers agreed to establish and shippers agreed to accept the following rates on logs, bolts, billets, rough staves and heading for single line application subject to usual rough material rules and reshipping requirements:

Distances	Rates per car regardless of weight
25 miles and less	$12.00
50 miles and over 25 miles	15.00
75 miles and over 50 miles	17.50
100 miles and over 75 miles	22.50

[fol. 3073] The new rates are to be applied state and interstate in Arkansas, Louisiana and Missouri on the Missouri Pacific Railroad, Chicago, Rock Island and Pacific Railway, St. Louis Southwestern Railway, St. Louis-San Francisco Railway and Missouri & North Arkansas Railway—this agreement not to be made the basis for increasing present rates.

To Memphis, $5.00 per car is to be added to the foregoing scale for through distances, except that the Cotton Belt

reserves the right to add an arbitrary of $10.00 per car on account of its expensive entrance to the Memphis terminal.

Rates are to be issued by the carriers experimentally in an effort to meet highway competition and will be published at the earliest possible uniform date, also to expire by limitation December 31, 1932. Shippers agreed not to litigate withdrawal of these rates at that time if carriers decided to let same expire.

Shippers will undertake to give the rail lines all business possible in order to justify them in operating these rates.

(Signed) C. A. New, Assistant Secretary-Manager.

can/b.

[fol. 3074]

EXHIBIT No. 150

I. C. C. Docket No. 18364

Witness M. W. Thomas

Statement of the Movement of Logs, Lumber and Other Forest Products on the Central of Georgia Railway for Years 1927 to 1931, Inclusive

Commodity	1927			1928			1929		
	No. Cars	Total No. tons	Total revenue	No. cars	Total No. tons	Total revenue	No. cars	Total No. tons	Total revenue
Logs	15,209	430,786	323,590	9,271	269,666	224,312	11,674	345,900	286,109
Lumber, shingles and laths	53,420	1,347,834	2,532,160	50,006	1,269,868	2,397,839	50,476	1,299,978	2,594,620
Posts, poles and piling	1,024	25,527	40,858	976	27,363	44,650	2,197	57,974	139,479
Box and crate materials	2,103	34,501	56,187	2,753	51,485	85,422	2,280	49,019	87,063
Cooperage materials	1,329	33,722	49,375	31	675	1,075	122	3,042	5,221
Ties, railroad	1,424	40,389	59,568	736	19,664	25,435	1,028	28,347	41,510

Commodity	1930			1931		
	No. Cars	Total No. tons	Total revenue	No. cars	Total No. tons	Total revenue
Logs	6,677	201,547	181,413	3,168	97,583	87,478
Lumber, shingles and laths	30,893	786,182	1,585,203	20,161	504,059	1,023,414
Posts, poles and piling	1,918	49,935	121,990	753	19,490	41,942
Box and crate materials	1,542	28,348	52,477	1,531	27,263	50,084
Cooperage materials	321	7,668	14,046	396	10,334	19,827
Ties, railroad	936	26,188	42,559	273	7,892	10,691

Logs, movement years 1927 to 1931, inclusive:

Total number of cars: 45,999.
Total weight: 1,345,482 tons.
Average per car: 29.3 tons.
Total revenue: $1,102,902.00.
Average revenue per car: $23.98.

[fol. 3075] EXHIBIT #151

These Rates are Issued to Meet Truck Competition

Charges resulting from rates in this Schedule, or as amended, are subject to the provisions of F. L. Speiden's Tariff of Emergency Charges 250-A, I. C. C. 1616, supplements thereto or subsequent issues thereof.

I. C. C. No. 2848.

G. F. O. Special No. 140 (Reduction)

Central of Georgia Railway Company

Rules and Regulations Governing Proportional Rates on Logs, All Kinds, Carloads of any Weight, from Stations on Central of Georgia Railway Company (Named in Rule 9), to Montgomery, Ala., When for Manufacture and Reshipment

Classification governed, except as otherwise provided herein, by Southern Classification No. 49, Agent E. H. Dulaney's I. C. C. No. 34, and by supplements to or successive issues of said publication.

Issued August 11, 1932.

Effective: Interstate September 13, 1932; Intrastate August 15, 1932.

Expires with September 12, 1933, unless sooner cancelled, changed or extended.

On intrastate traffic: Issued on one (1) day's notice under authority of Alabama Public Service Commission Special Approval No. 4483 of August 11, 1932.

By C. D. Chancellor, General Freight Agent, 233 West Broad Street, Savannah, Georgia.

Station Tariff File No. 25.

Desk R—(W. J. C.) 5. File 340/755-H. Printed in U. S. A.

[fol. 3076] Storage, Demurrage and Terminal Charges and Transit Privileges

In the absence of specific provisions in this tariff to the contrary, shipments transported under this tariff will be

subject to all terminal charges and all allowances relating to:

Car rental	Milling	Storage
Car service	Overloading cars, handling of	Switching
Demurrage	Reconsigning	Terminal services
Diversion	Reweighing	Transfer
Drayage		Transit services
Dunnage		

together with all other privileges, charges and rules which in any way increase or decrease the amount to be paid on any shipment between points named in this tariff, or as the same may be amended or changed, or which increase or decrease the value of the service to the shipper, as provided in tariffs published and lawfully on file with the Interstate Commerce Commission.

In the absence of specific provisions in this tariff to the contrary, property destined to points beyond the tracks of roads named herein as issuing lines, is entitled to such privileges and will be subject to such charges, as provided in the tariffs published and lawfully on file with the Interstate Commerce Commission of the carriers granting the privilege or performing the service.

Application of Tariff

The proportional rates on logs (see note), all kinds, carloads of any weight, authorized in Item 1, are applicable only on shipments moving from points of origin to Montgomery, Ala. when the movement is solely via Central of Georgia Railway and will only apply when outbound shipments of lumber from Montgomery, Ala. are forwarded via Central of Georgia Railway to destinations on its line, and via Central of Georgia Railway and its connections to destinations beyond its line to which rates from Montgomery, Ala. apply via Central of Georgia Railway as initial line.

NOTE.—A log is construed to mean a section of a tree exceeding four feet in length, not rived and with bark on, regardless of diameter. Also, sections of trees not exceeding four feet in length when eight inches or more in diameter.

Rule 1. Rates to Apply on Logs Inbound

Logs, carload, intended for handling under proportional rates authorized herein, must be consigned to Montgomery, Ala. proper and freight charges collected on basis of the lawfully published tariff rates.

Rule 2. Rates to Apply on Lumber Outbound

Bills of lading for lumber shipped from Montgomery, Ala. shall be issued by the agent of the Central of Georgia Railway and the rates to be applied shall be those applicable via Central of Georgia Railway as an initial carrier on the lumber from Montgomery, Ala., proper, to final destination in effect on date of shipment from Montgomery, Ala.

Rule 3. Settlement by Claim

Upon evidence as provided for herein, of shipment from Montgomery, Ala. of lumber at published tariff rate applying from Montgomery, Ala. proper, the freight charges on logs into Montgomery, Ala. will be reduced to the basis [fol. 3077] provided in Rule 9, when claim is supported by:

(a) Paid inbound freight bills (see Note 1) covering logs shipped in, and such paid freight bills must clearly indicate the weight of the logs. If the paid freight bills do not show this information or satisfactory evidence thereof is not furnished, such paid freight bills will not be available for securing protection of rates authorized herein.

(b) Copies of bills of lading showing the weight of the lumber shipped out via Central of Georgia Railway. If the copies of bills of lading do not show this information or satisfactory evidence thereof is not furnished, such copies of bills of lading will not be accepted in securing protection of rates authorized herein.

(c) Certificate in the following form:

"Tender is hereby made to the Central of Georgia Railway Company of freight bills numbered and dated as specified below, for the purpose of securing application of net rates as provided in Central of Georgia Railway Company's I. C. C. No. — on the logs covered thereby. This tender

is made in good faith and with the guarantee on our part that such rates may legally be applied under the rules of said Railway as published in its tariff, I. C. C. No. —, supplements thereto or successive issues thereof.

Freight Bill — . Pro. No. —. Date: —— —, ——, Montgomery, Ala.

(Signature of Shipper:) —— ——."

In instances where the shipper at Montgomery, Ala., for commercial reasons, forwards shipments from that point in the name of another party, firm or corporation, the actual shipper must add to the certificate quoted above, the following:

"For commercial reasons the shipment from Montgomery, Ala., in Car — (insert car initial and number) shows consignor as follows: ——.

(Signature of Shipper:) —— ——."

NOTE 1.—When the weight represented by the paid inbound freight bills surrendered is in excess of the weight of the outbound lumber, subject to the ratio shown in Rule 9, the shipper will be given credit for such excess weight which may be used within the life of the freight bill of which such excess weight is a part, except no credit will be given for less than 1,000 pounds.

Rule 4. Change of Ownership of Logs

A transfer by transit users of paid freight bills covering logs will be permitted only where the logs are also transferred by bona fide sale. A certificate to this effect shall be made in the following form on the face of the freight bills:

[fol. 3078] "This is to certify that there has been a bona fide sale to the undersigned of the logs covered by this freight bill.

(Signed) —— ——,

Dated: —— —, ——."

Rule 5. Supervision and Inspection

The traffic handled at the rates and under the rules shown in this tariff shall be subject to the supervision of a representative or representatives of the carrier who shall have

access to the records of the railroads and of the shippers for the purpose of determining the accuracy of such records and to the documents submitted in support of claims for protection of the rates shown in this tariff.

Among other duties, it is the duty of the representative to:

(a) Check, compare and verify the inbound freight bills.

(b) Check the records of the railroads and shippers for the purpose of determining the actual character and weight of the outbound shipments, in order to determine the correctness of the claims.

Rule 6. Time Limit of Freight Bills

The proportional rates authorized in Item 1 will not be protected on shipments held at Montgomery, Ala. for more than twelve months from date of freight bills covering inbound movements nor will the proportional rates be protected on shipments moving from primary point of origin prior to the effective date of this tariff.

Rule 7. Switching Charges

The Central of Georgia Railway will not absorb switching charges of other lines at Montgomery, Ala. on inbound shipments of logs. Such switching charges will be in addition to the rates published herein.

Rule 8. List of Stations and Distances

For list of stations and distances, see Central of Georgia Railway Company's I. C. C. No. 2796 (Distance Table No. 2), G. F. O. Tariff 696-A, supplements to or successive issues thereof.

Rule 9. Basis for Determining Charges and Refunds under Transit Rules

(a) On carload shipments of logs drawn into Montgomery, Ala. from stations on the Central of Georgia Railway (see Note "A" below) and there manufactured and the lumber shipped via Central of Georgia Railway to destinations on its line and via Central of Georgia Railway and its connections to destinations beyond its line, the tariff rate on the inbound movement to Montgomery, Ala. and the

tariff rate on the lumber from Montgomery, Ala. to final destination will be assessed.

[fol. 3079] (b) If the lumber is shipped from Montgomery, Ala. within twelve (12) calendar months after date of paid freight bill covering inbound movement of logs, Central of Georgia Railway will refund the transit user charges assessed for the transportation of the logs into Montgomery, Ala. in excess of charges based on the proportional rates shown in Item 1, subject to the ratio provided in Section (c).

(c) The ratio of the lumber outbound to the logs inbound shall be:

For each pound of lumber shipped out from Montgomery, Ala., proportional rates authorized herein will be applied on not more than three pounds of logs shipped into Montgomery, Ala.

Note A

Central of Georgia Railway Company Stations, viz. (See Rule 8) Southwestern Division

Between Eufaula and Montgomery:
Eufaula to Dingley, Ala., inclusive.

Between Eufaula and Ozark:
Tullis to Springer, Ala., inclusive.

Columbus Division

Between Columbus, Ga., and Andalusia, Ala.:
Girard to Brantley, Ala., inclusive.

Item 1. Proportional Rates

In Cents Per Car of Any Weight

Distances (See Rule 8)	Rates
25 miles and under	1450
50 miles and over 25	1750
75 miles and over 50	2000
100 miles and over 75	2250

[fol. 3080]

EXHIBIT No. 152

I. C. C. Docket No. 18364

Witness M. W. Thomas

Statement of Revenue Per Car of 70,000 Pounds on Logs at Transit Rates from Central of Georgia Railway Company Stations in Alabama to Montgomery Compared with Revenue Assessed by the Trucks for the Same Tonnage from the Vicinity of These Stations to Montgomery. This Statement also Shows Miles to Railroad Stations and Rail Miles from Thence to Montgomery.

To Montgomery, Ala. From	Miles via rail to Montgomery	Revenue per car of 70,000 pounds		Miles to railroad stations
		Via truck	Via rail	
Fitzpatrick, Ala.	28	17 50	17 50	2 5
Thompson, Ala.	33	17 50	17 50	3 0
Union Springs, Ala.	40	17 50	17 50	12 0
Inverness, Ala.	50	17 50	17 50	12 0
Midway, Ala.	53	17 50	20 00	5 0
Ezell, Ala.	59	17 50	20 00	6 0
Hurtsboro, Ala.	60	17 50	20 00	10 0
Comer, Ala.	62	17 50	20 00	5 0
Batesville, Ala.	66	17 50	20 00	3 0
Troy, Ala.	70	17 50	20 00	8 0
Seale, Ala.	75	21 00	20 00	14 0
Eufaula, Ala.	80	21 00	22 50	5 0
Brantley, Ala.	96	21 00	22 50	6 0

[fol. 3081]

EXHIBIT No. 153

I. C. C. Docket No. 18364

Witness M. W. Thomas

Statement of Transit and Normal Rates on Logs, C. L., from C. of Ga. Ry. Stations to Montgomery, Ala., Published in C. of Ga. Ry's G. F. O. Special No. 140, I. C. C. No. 2848, Showing Per Car Revenues at Minimum Weight of 40,000 lbs. and at Average Loading on the C. of Ga. Ry. for Five Year Period, 1927 to 1931, Inclusive.

Miles	Rates in cents		Revenue per car C. L. minimum weight 40,000 pounds			@Average loading 1927 to 1931, inclusive 58,600 pounds		
	Local Per 100 pounds	Transit Per car	A	B	C	A	B	C
5	2.5	$14.50	$10.00	$14.50	145.0	14.65	14.50	87.9
10	2.5	14.50	10.00	14.50	145.0	14.65	14.50	87.9
15	3.0	14.50	12.00	14.50	120.8	17.58	14.50	82.5
20	3.0	14.50	12.00	14.50	120.8	17.58	14.50	82.5
25	3.5	14.50	14.00	14.50	103.6	20.51	14.50	70.7
30	3.5	17.50	14.00	17.50	125.0	20.51	17.50	70.7
35	4.0	17.50	16.00	17.50	109.4	23.44	17.50	74.7
40	4.0	17.50	16.00	17.50	109.4	23.44	17.50	74.7
45	4.5	17.50	18.00	17.50	97.2	26.37	17.50	66.4
50	4.5	17.50	18.00	17.50	97.2	26.37	17.50	66.4
55	4.5	20.00	18.00	20.00	90.0	26.37	20.00	75.8
60	5.0	20.00	20.00	20.00	100.0	29.30	20.00	68.3
65	5.0	20.00	20.00	20.00	100.0	29.30	20.00	68.3
70	5.0	20.00	20.00	20.00	100.0	29.30	20.00	68.3
75	5.5	20.00	22.00	20.00	90.9	32.23	20.00	62.1

EXHIBIT No. 152—Continued

Miles	Rates in cents: Local Per 100 pounds	Rates in cents: Transit Per car	Revenue per car: C. L. minimum weight 40,000 pounds: A	B	C	@Average loading 1927 to 1931, inclusive 58,600 pounds: A	B	C
80	5.5	22.50	22.00	22.50	102.3	32.23	22.50	69.8
85	5.5	22.50	22.00	22.50	102.3	32.23	22.50	69.8
90	6.0	22.50	24.00	22.50	93.8	35.16	22.50	64.0
95	6.0	22.50	24.00	22.50	93.8	35.16	22.50	64.0
100	6.0	22.50	24.00	22.50	93.8	35.16	22.50	64.0
Totals			356.00	372.50	2,140.3	521.54	372.50	1,438.8
Average			17.80	18.63	107.0	26.08	18.63	71.9

A—Local Revenue.
B—Transit Revenue.
C—Percentage that per car revenues at transit rates bears to per car revenues at local rates.

Agent J. H. Glenn's I. C. C. No. A-757.
C. of Ga. Ry's I. C. C. No. 2848.

[fol. 3082]

EXHIBIT No. 154

I. C. C. Docket No. 18364

Witness M. W. Thomas

Statement Comparing Per Car Revenues on Logs at Transit Rates from Central of Georgia Railway Company Stations in Alabama to Montgomery with Per Car Revenue in Georgia for Single Line Hauls Showing Percentage Per Car Revenue at Transit Rates Bear to Per Car Revenue at Local Rates.

Miles	Rates in cents: Local per car	Rates in cents: Transit per car	Revenue per car: C. L. minimum weight 40,000 pounds: A	B	C	Revenue per car: Average loading on C. of Ga., Ry. 1927 to 1931, Inc., 58,600 pounds: A	B	C
5	7.32	14.50	7.32	14.50	198.1	10.72	14.50	135.3
10	8.44	14.50	8.44	14.50	171.8	12.36	14.50	117.3
15	10.00	14.50	10.00	14.50	145.0	14.65	14.50	99.0
20	10.50	14.50	10.50	14.50	138.1	15.38	14.50	94.3
27	11.50	14.50	11.50	14.50	126.1	16.85	14.50	86.4
30	12.00	17.50	12.00	17.50	145.8	17.58	17.50	99.5
35	13.00	17.50	13.00	17.50	134.6	19.05	17.50	91.9
40	13.50	17.50	13.50	17.50	129.6	19.78	17.50	88.5
45	14.00	17.50	14.00	17.50	125.0	20.51	17.50	85.3
50	14.00	17.50	14.00	17.50	125.0	20.51	17.50	85.3
55	14.50	20.00	14.50	20.00	137.9	21.24	20.00	94.2
60	16.00	20.00	20.00	20.00	125.0	23.44	20.00	85.3
65	16.50	20.00	16.50	20.00	121.2	24.17	20.00	82.7
70	17.00	20.00	17.00	20.00	117.6	24.91	20.00	80.3
75	17.50	20.00	17.50	20.00	114.3	25.64	20.00	75.1
80	18.50	22.50	18.50	22.50	121.6	27.10	22.50	83.0
85	19.00	22.50	19.00	22.50	118.4	27.84	22.50	80.8
90	19.50	22.50	19.50	22.50	115.4	28.57	22.50	78.8
95	20.50	22.50	20.50	22.50	109.8	30.03	22.50	74.9
100	21.50	22.50	21.50	22.50	104.7	31.50	22.50	71.4

A—Local revenue.
B—Transit revenue.
C—Percentage that per car revenue at transit rates bear to per car revenues at local rates.

C. of Ga. Ry. Co's. I. C. C. No. 2783.
C. of Ga. Ry. Co's. I. C. C. No. 2848.

[fol. 3083] EXHIBIT No 155

Witness Miles

Statement Showing Local and Reshipping Rates also Truck Competitive Rates on Logs Applicable at Points on the Illinois Central R. R. and the Yazoo and Mississippi Valley R. R. in Tennessee, Mississippi and Louisiana (East of the Mississippi River)

(Rates in Cents Per 100 lbs. except as noted)

Distance	Local Rates on Logs C. L. min. wt. 40,000 pounds				Reshipping Rates C. L. min. 40,000	Truck Competitive Reshipping rates per car
	I. C. R. R.		Y.&M.V.R.R.			
	A	B	A	B	IC-Y&MV	IC-Y&MV
5	4½	4½	4½	4½	2	12.00
10	5	4½	4½	4½	2	12.00
15	6	4½	4½	4½	2	12.00
20	6½	4½	4½	4½	2½	12.00
25	7	4½	4½	4½	2½	12.00
30	7	5	6	6	2½	15.00
35	8	5	6	6	3½	15.00
40	8½	5	6	6	3½	15.00
45	9½	5½	6	6	4	15.00
50	10½	5½	6	6	4½	15.00
55	11	5½	6½	6½	4½	17.50
60	11	5½	6½	6½	5	17.50
65	11½	6½	7	7	5	17.50
70	11½	7	7	7	5	17.50
75	11½	7	7	7	6	17.50
80	11½	7	7	7	6	20.00
85	12½	8½	7	7	6	20.00
90	12½	8½	7	7	6½	20.00
95	13	8½	7	7	6½	20.00
100	13	8½	7	7	6½	20.00

A—Interstate.
B—Intrastate, Mississippi.

Tariff References:

I. C. R. R. Freight Tariff 590-S, I. C. C. 7835.
I. C. R. R. Freight Tariff 510-I, I. C. C. 7423.
Y. & M. V. Freight Tariff 204-F, I. C. C. 7222.
I. C. R. R. Freight Tariff 206-F, I. C. C. 7434.
Y. & M. V. Freight Tarjff 602-M, I. C. C. 7810.
Agent Dulaney's I. C. C. 45.
I. C. System Commerce Bureau
Chicago, Ill., Nov. 17, 1932

[fol. 3084] EXHIBIT No. 156

Witness Wales

Statement Showing Movement of Logs on the Illinois Central System for Years 1928, 1929, 1930, 1931 and Six Months 1932

Year		Movement in tons
1928		1,579,546
1929		1,616,414
1930		819,150
1931		361,447
1932	Jan. Feb. Mar.	64,806
	April, May, June	46,744
		111,650

I. C. System Commerce Bureau.
Chicago, Ill., Nov. 18, 1932.

[fol. 3085] EXHIBIT No. 157

I. C. C. Docket 18364

Witness Perrin

Statement Showing Number Carloads of Long Logs (Except Trainloads) Via Atlantic Coast Line Railroad Between Points in Florida by Months from February, 1931, to August, 1932, Inclusive.

Month	From	To	Miles	Number carloads
February, 1931	Gardner	Nocatee	14	3
	Istachatta	Lacoochee	17	34
	Hooper	Lacoochee	18	3
	Lamont	Perry	22	27
	Russell	Palatka	33	1
	Otter Creek	Cross City	34	10
	Cassia	Bonds Mill	35	2
	Mt. Plymouth	Bonds Mill	39	5
	Brooksville	Leesburg	41	1
	Venus	Avon Park	41	10
	Orange Park	Palatka	42	1
	Cross City	Perry	44	18
	Socotan	Cross City	49	6
	Lake Butler	Jacksonville	53	13
	Rital	Apopka	60	1
	Santa Fe	Jacksonville	65	2
	Rochelle	Cross City	70	14
	Istachatta	Apopka	71	1
	Gainesville	Jacksonville	86	1
	Half Moon	Lacoochee	89	1
	Raiford	Palatka	90	1
	Lisbon	Loughman	92	16
	Altoona	Loughman	93	5
	Brooksville	Kissimmee	96	9
	Astor Park	Loughman	108	2
	Astor	Loughman	111	10
	Astor Park	Jacksonville	182	5
	Astor	Jacksonville	185	6
Total				208

Month	From	To	Miles	Number carloads
March, 1931	Istachatta	Lacoochee	17	14
	Hooper	Lacoochee	18	5
	Lamont	Perry	22	40
	Branford	Lake City	30	1
	Clara	Perry	27	7
	Rochelle	Buffalo Bluff	32	2
	Otter Creek	Cross City	34	9
	Doctors Inlet	Palatka	36	1
	Mt. Plymouth	Bonds Mill	39	1
	Rochelle	Palatka	40	6
	Venus	Avon Park	41	1
[fol. 3086]	Cross City	Perry	44	30
	Raiford	Jacksonville	45	1
	Secotan	Cross City	49	13
	Lake Butler	Jacksonville	53	11
	Miccosukee	Perry	54	2
	Mt. Plymouth	Loughman	68	1
	Rochelle	Cross City	70	7
	Gracys	Jacksonville	79	1
	Gainesville	Jacksonville	86	10
	Lisbon	Loughman	93	14
	Banes Siding	Loughman	104	5
	Astor Park	Loughman	108	25
	Astor	Loughman	111	3
	Cross City	Jacksonville	118	1
	Gainesville	Sanford	118	1
	Gulf-Hammock	Jacksonville	135	2
	Lacoochee	Perry	155	3
	Banes Siding	Jacksonville	179	3
	Astor Park	Jacksonville	182	7
	Mt. Plymouth	Perry	200	1
Total				228
April, 1931	Gardena	Nocatee	14	4
	Istachatta	Lacoochee	17	14
	Hooper	Lacoochee	18	11
	Lamont	Perry	22	5
	Dyal	Jacksonville	24	1
	Clara	Perry	27	2
	Branford	Lake City	30	1
	Rochelle	Buffalo Bluff	32	2
	Otter Creek	Cross City	34	5
	Hines	Perry	34	11
	Russell	Buffalo Bluff	40	3
	Rochelle	Palatka	40	8
	Venus	Avon Park	41	1
	Cross City	Perry	44	11
	Gainesville	Palatka	49	1
	Secotan	Cross City	49	15
	Half Moon	Lake City	50	1
	Lake Butler	Jacksonville	53	15
	Miccosukee	Perry	54	5
	Rital	St. Petersburg	79	1
	Gainesville	Jacksonville	86	6
	Hildreth	Gainesville	97	1
	Astor Park	Kissimmee	97	1
	Grass Fibre	Loughman	99	14
	Astor Park	Loughman	108	30
	Astor	Loughman	111	10
	Lacoochee	Perry	155	5
	Astor	Jacksonville	185	2
	Bradford Farms	Loughman	199	1
Total				187

[fol. 3087] Month	From	To	Miles	Number carloads
May, 1931	Hollister	Palatka	13	1
	Gardner	Nocatee	14	7
	Istachatta	Lacoochee	17	7
	Hooper	Lacoochee	18	4
	Clara	Perry	27	7
	Walkill	Buffalo Bluff	30	3
	Hines	Perry	34	2
	Grove Park	Palatka	36	9
	Rochelle	Palatka	40	2
	Cross City	Perry	44	8
	Secotan	Cross City	49	23
	Gainesville	Palatka	49	5
	Lake Butler	Jacksonville	53	12
	Deland	Palatka	56	1
	Hague	Palatka	60	1
	Minneola	Loughman	60	4
	Sanford	Palatka	71	2
	Hague	Jacksonville	75	1
	Mt. Homer	Loughman	82	1
	Lake Butler	Palatka	82	1
	Gainesville	Jacksonville	86	5
	Grove Park	Jacksonville	91	2
	Rochelle	Jacksonville	95	4
	Banes Siding	Loughman	104	21
	Astor Park	Loughman	108	9
	Howey	Loughman	108	3
	Astor	Loughman	111	39
	Rital	Jacksonville	174	1
	Banes Siding	Jacksonville	179	1
	Astor Park	Jacksonville	182	1
Total				187
June, 1931	Gardner	Nocatee	14	2
	Carbur	Perry	17	22
	Walkill	Palatka	23	2
	Clara	Perry	27	15
	Walkill	Buffalo Bluff	30	1
	Sorrento	Leesburg	32	2
	Hines	Perry	34	19
	Wailing	Leesburg	38	8
	Rochelle	Palatka	40	15
	Cross City	Perry	44	6
	Gardner	Apopka	44	1
	Eugene	Perry	47	1
	Gainesville	Palatka	49	3
	Lake Butler	Jacksonville	53	16
	Miccosukee	Perry	54	4
	Deland	Palatka	56	7
	Dukes	Jacksonville	58	1
	Hague	Palatka	60	1
	Sanford	Palatka	71	4
	Rital	St. Petersburg	79	1
	Homosassa	Drury	86	1
[fol. 3088]				
	Grove Park	Jacksonville	91	1
	Gainesville	Perry	104	1
	Astor Park	Loughman	108	1
	Chiefland	Palatka	109	7
	Astor	Loughman	111	55
	Martin	Jacksonville	117	4
	Tarrytown	Palatka	132	15
	Hague	Tampa	155	1
Total				217

Month	From	To	Miles	Number carloads
July, 1931	Carbur	Perry	17	46
	Clara	Perry	27	10
	Walkill	Buffalo Bluff	30	2
	Hines	Perry	34	13
	Walling	Leesburg	38	4
	Rochelle	Palatka	40	7
	Cross City	Perry	44	26
	Raiford	Jacksonville	45	6
	Eugene	Perry	47	2
	Lake Butler	Jacksonville	53	15
	Prine	Tampa	57	1
	Dukes	Jacksonville	58	11
	Doubling Spur	Loughman	73	1
	Homosassa	Drury	86	1
	Brooksville	Kissimmee	96	1
	Hardeetown	Palatka	107	14
	Astor Park	Loughman	108	1
	Chiefland	Palatka	109	4
	Astor	Loughman	111	13
	Lowell	Jacksonville	114	1
	Martin	Jacksonville	117	2
	Chiefland	Jacksonville	118	10
	Tarrytown	Palatka	132	6
	Martin	Perry	136	2
Total				199
August, 1931	Pasco	Lacoochee	16	1
	Carbur	Perry	17	14
	Altoona	Mt. Dora	19	2
	Brooksville	Lacoochee	21	1
	Green Cove Springs	Palatka	26	1
	Clara	Perry	27	6
	Green Cove Springs	Buffalo Bluff	34	1
	O'Brien	Lake City	35	1
	Cross City	Perry	44	15
	Lake Butler	Jacksonville	53	20
	Haines City	Tampa	54	3
	Dukes	Jacksonville	58	7
	Otter Creek	Lacoochee	77	24
	Gainesville	Jacksonville	86	1
	Branford	Jacksonville	104	20
	Hardeetown	Palatka	107	4
	Old Town	Jacksonville	109	1
[fol. 3089]				
	Citra	Jacksonville	114	2
	Chiefland	Jacksonville	118	3
	Citra	Perry	133	2
	Wagner	Perry	229	3
	Oviedo	Perry	235	1
Total				133
September, 1931	Fort White	Lake City	22	1
	Dyal	Jacksonville	24	1
	O'Brien	Lake City	35	2
	Cross City	Perry	44	10
	Raiford	Jacksonville	45	6
	Homosassa	Ocala	50	1
	Lake Butler	Jacksonville	53	7
	Cross City	Gainesville	60	1
	Otter Creek	Lacoochee	77	24
	Johnson	Jacksonville	79	3
	Gainesville	Jacksonville	86	4

Month	From	To	Miles	Number carloads
September, 1931	Pierson	Jacksonville	90	1
	Gardner	Avon Park	101	2
	Branford	Jacksonville	104	7
	Astor	Loughman	111	97
	Chiefland	Jacksonville	118	4
	Citra	Perry	133	1
	Clara	Jacksonville	135	1
	Chiefland	Loughman	152	7
Total				180
October, 1931	Fort Ogden	Nocatee	7	4
	Sebring	Avon Park	8	2
	Loughman	Kissimmee	11	1
	Davenport	Kissimmee	17	1
	Deland	Sanford	21	4
	Taft	Loughman	21	8
	Ft. White	Lake City	22	1
	Dyal	Jacksonville	24	1
	O'Brien	Lake City	35	1
	Hucoria	Avon Park	35	1
	Venus	Avon Park	41	1
	Venus	Clewiston	41	1
	Cross City	Perry	44	12
	Lake Butler	Jacksonville	53	6
	Campbell	Avon Park	56	4
	Trilby	Loughman	65	2
	Kabel	Kissimmee	65	1
	Mt. Plymouth	Loughman	68	3
	Tidewater	Leesburg	70	1
	Worthington Springs	Palatka	74	1
	Tarrytown	Loughman	76	4
	Otter Creek	Lacoochee	77	5
	Burberville	Loughman	81	8
	Sorrento	Palatka	88	1
[fol. 3090]				
	Chiefland	Brooksville	89	1
	Seville	Loughman	91	15
	Brooksville	Kissimmee	96	4
	Astor	Loughman	111	60
	Palatka	Loughman	121	15
	Chiefland	Loughman	152	50
	Hague	Tampa	155	3
	Agnew	Avon Park	163	1
	Worthington Springs	Kissimmee	182	1
	Mt. Plymouth	Perry	200	6
Total				227
November, 1931	Sorrento	Sanford	19	1
	Santa Fe	Gainesville	21	1
	Clara	Perry	27	9
	Cross City	Perry	44	22
	Lake Butler	Jacksonville	53	1
	Old Town	Perry	54	1
	Campbell	Avon Park	56	1
	Astor Park	Sanford	58	1
	Inverness	Hardeetown	60	2
	Mt. Plymouth	Loughman	68	2
	Burnetts Lake	Jacksonville	72	1
	Usher	Perry	72	2
	Dowling	Lacoochee	73	1
	Tarrytown	Loughman	76	12
	Otter Creek	Lacoochee	77	4

Month	From	To	Miles	Number carloads
November, 1931	Dukes	Palatka	77	2
	Floral City	Loughman	87	9
	Seville	Loughman	91	72
	Ft. White	Perry	99	5
	Gardner	Avon Park	101	1
	Gainesville	Perry	104	2
	Brownsville	Avon Park	105	1
	Astor	Loughman	111	3
	Homosassa	Dewey	119	1
	Crystal River	Kissimmee	134	2
	Otter Creek	Loughman	140	11
	Chiefland	Loughman	152	65
	Lacoochee	Perry	155	6
	Hague	Tampa	155	2
	Mt. Plymouth	Perry	200	9
Total				252
December, 1931	Shingle Creek	Kissimmee	5	1
	Brooksville	Lacoochee	21	2
	Deland	Sanford	21	1
	Santa Fe	Gainesville	21	2
	Clara	Perry	27	2
	Cross City	Perry	44	13
	Lake Butler	Jacksonville	53	1
[fol. 3091]	Old Town	Perry	54	4
	Campbell	Avon Park	56	11
	Palatka	Jacksonville	57	3
	Fesan	Jacksonville	63	1
	Hardeetown	Perry	65	1
	Chiefland	Perry	66	3
	Mt. Plymouth	Loughman	68	4
	Usher	Perry	72	3
	Brooksville	Loughman	85	4
	Seville	Loughman	91	12
	Fort White	Perry	99	6
	Lake Butler	Perry	109	1
	Branford	Perry	113	2
	Rochelle	Perry	114	2
	Homosassa Springs	Perry	128	3
	Homosassa	Perry	130	16
	Clara	Jacksonville	135	4
	Otter Creek	Loughman	140	16
	Chiefland	Loughman	152	33
	Bonds Mill	Cross City	155	1
	Lacoochee	Perry	155	6
	Mt. Plymouth	Perry	200	2
	Lake City	Kissimmee	211	1
Total				161
January, 1932	Loughman	Kissimmee	11	1
	Mascotte	Lacoochee	20	1
	Deland	Sanford	21	1
	Wauchula	Nocatee	28	1
	Torrey	Nocatee	32	1
	Steckert	Jacksonville	32	8
	Altamonte Springs	Loughman	39	9
	Venus	Avon Park	41	4
	Cross City	Perry	44	30
	Lake Butler	Jacksonville	53	8
	Old Town	Perry	54	1
	Inverness	Hardeetown	60	1

Month	From	To	Miles	Number carloads
January, 1932	Ft. White	Jacksonville	91	2
	Raleigh	Perry	94	2
	Raleigh	Jacksonville	101	5
	Deland	Jacksonville	111	11
	Branford	Perry	113	2
	Chiefland	Jacksonville	118	1
	Homosassa	Dewey	119	1
	Lake City	Perry	121	1
	Crystal River	Perry	121	2
	Homosassa	Perry	130	8
	Clara	Jacksonville	135	2
	Otter Creek	Loughman	140	34
	Crystal River	Avon Park	152	2
	Chiefland	Loughman	152	44
	Rochelle	Loughman	158	1
	Mt. Plymouth	Perry	200	10
Total				199
[fol. 3092]				
February, 1932	Loughman	Kissimmee	11	1
	Aulls	Sanford	12	1
	Deland	Sanford	21	1
	Santa Fe	Gainesville	21	1
	Altamonte Springs	Loughman	39	35
	Lake Butler	Jacksonville	53	1
	Old Town	Perry	54	1
	Hernando	Hardeetown	55	1
	Campbell	Avon Park	56	2
	Inverness	Hardeetown	60	1
	Francis	Jacksonville	60	12
	Alachua	Palatka	65	2
	Chiefland	Perry	66	4
	Dukes	Palatka	77	1
	Otter Creek	Perry	78	1
	Hawthorne	Jacksonville	86	8
	Fort White	Jacksonville	91	14
	Rochelle	Jacksonville	95	8
	Brooksville	Kissimmee	96	1
	Deland	Jacksonville	111	18
	Chiefland	Jacksonville	118	5
	Homosassa	Dewey	119	2
	Lake City	Perry	121	1
	Otter Creek	Jacksonville	130	3
	Clara	Jacksonville	135	11
	Otter Creek	Loughman	140	16
	Mt. Plymouth	Jacksonville	141	3
	Chiefland	Loughman	152	32
	Homosassa	Jacksonville	155	4
	Lacoochee	Perry	155	7
	Rochelle	Loughman	158	5
Total				203
March, 1932	Orlando	Kissimmee	18	3
	Clara	Perry	27	2
	Venus	Avon Park	41	3
	Wekiva	Kissimmee	49	1
	Inverness	Hardeetown	60	1
	Francis	Jacksonville	60	6
	Chiefland	Perry	66	1
	Fesan	Palatka	72	3
	Gulf Hammock	Perry	84	1

Month	From	To	Miles	Number carloads
March, 1932	Hawthorne	Jacksonville	86	11
	Fort White	Jacksonville	91	13
	East Alachua	Perry	92	2
	Brooksville	Kissimmee	96	3
	Buchanan	Avon Park	97	2
	Fort White	Perry	99	2
	Gardner	Avon Park	101	1
	Brooksville	Orlando	113	1
	Rochelle	Perry	114	1
	Chiefland	Jacksonville	118	3
	Dukes	Brooksville	122	1
	Otter Creek	Jacksonville	130	16
[fol. 3093]	Clara	Jacksonville	135	3
	Aulls	Jacksonville	136	5
	Wagner	Jacksonville	137	4
	Altamonte Springs	Jacksonville	137	27
	Candler	Jacksonville	139	1
	Gardena	Jacksonville	142	4
	Homosassa	Kissimmee	143	1
	Candler	Perry	146	1
	Chiefland	Loughman	152	29
	Homosassa	Jacksonville	155	9
	Gainesville	Tampa	157	1
	Lake City	Kissimmee	214	2
	Live Oak	Kissimmee	227	1
Total				165
April, 1932	Temple Terrace Jct.	Tampa	10	12
	Loughman	Kissimmee	11	2
	Orlando	Kissimmee	18	2
	Deland	Sanford	21	2
	Clark	Perry	27	5
	Fort White	Gainesville	32	1
	Haines City	Avon Park	39	1
	Venus	Avon Park	41	1
	Hernando	Hardeetown	55	3
	Hall City	Avon Park	55	2
	Francis	Jacksonville	60	9
	Altoona	Orlando	64	1
	Chiefland	Perry	66	1
	Honore	Tampa	72	1
	Hague	Jacksonville	75	1
	Otter Creek	Perry	78	4
	Fort White	Jacksonville	91	11
	Rochelle	Jacksonville	95	5
	Buchanan	Avon Park	97	3
	Hildreth	Jacksonville	97	1
	Gardner	Avon Park	101	2
	Gainesville	Perry	104	1
	Homosassa Springs	Tampa	110	6
	Morriston	Jacksonville	117	4
	Inverness	Perry	124	1
	Otter Creek	Jacksonville	130	19
	Aulls	Jacksonville	136	20
	Candler	Jacksonville	139	6
	Gardena	Jacksonville	142	2
	Apex	Jacksonville	145	14
	Orlando	Jacksonville	147	5
	Chiefland	Perry	152	29
	Homosassa Springs	Jacksonville	153	1
	Homosassa	Jacksonville	155	6
Total				184

[fol. 3094]

Month	From	To	Miles	Number carloads
May, 1932	Hines	Cross City	10	3
	Clara	Perry	27	26
	Hawthorne	Palatka	31	1
	Hall City	Avon Park	55	2
	Hernando	Hardeetown	55	5
	Dukes	Jacksonville	58	22
	Francis	Jacksonville	60	9
	Seville	Jacksonville	84	5
	Fort White	Jacksonville	91	30
	Buchanan	Avon Park	97	1
	Hildreth	Jacksonville	97	1
	Fort White	Perry	99	1
	Chiefland	Linden	100	1
	Gardner	Avon Park	101	1
	Chiefland	Jacksonville	118	7
	Hawthorne	Perry	123	1
	Hines	Jacksonville	128	12
	Otter Creek	Jacksonville	130	19
	Clara	Jacksonville	135	5
	Candler	Jacksonville	139	6
	Apex	Jacksonville	145	6
	Crystal River	Jacksonville	146	2
	Orlando	Jacksonville	147	13
	Chiefland	Loughman	152	19
	Homosassa	Jacksonville	155	2
	Perry	Jacksonville	162	5
	Astor	Jacksonville	185	1
	Lake City	Kissimmee	211	2
Total				208
June, 1932	Perry	Carbur	17	11
	Clara	Perry	27	94
	Danville	Jacksonville	56	1
	Palatka	Jacksonville	57	1
	Dukes	Jacksonville	58	9
	Francis	Jacksonville	60	6
	Otter Creek	Perry	78	1
	Seville	Jacksonville	84	3
	Fort White	Jacksonville	91	8
	Rochelle	Jacksonville	95	2
	Chiefland	Jacksonville	118	2
	Hawthorne	Perry	123	1
	Ocala	Jacksonville	126	1
	Otter Creek	Jacksonville	130	1
	Aulls	Jacksonville	136	1
	Candler	Jacksonville	139	2
	Crystal River	Jacksonville	146	2
	Orlando	Jacksonville	147	11
	Chiefland	Loughman	152	6
	Palatka	Perry	153	1
	Homosassa	Jacksonville	155	5
	Perry	Jacksonville	162	7
	Brooksville	Jacksonville	180	9
Total				185

[fol. 3095]

July, 1932	Secotan	Perry	5	2
	Garbur	Perry	17	9
	Clara	Perry	27	70
	Hines	Perry	34	9

Month	From	To	Miles	Number carloads
July, 1932	Trenton	Gainesville	41	1
	Bradenton	Tampa	41	1
	Lake Butler	Jacksonville	53	2
	Sarasota	Tampa	53	7
	Francis	Jacksonville	60	5
	Hollister	Jacksonville	68	2
	Seville	Jacksonville	84	6
	Fort White	Jacksonville	91	13
	Rochelle	Jacksonville	95	9
	Lake City	Jacksonville	113	7
	Chiefland	Jacksonville	118	1
	Ocala	Jacksonville	126	8
	Wekiva	Jacksonville	134	4
	Homosassa	Kissimmee	143	1
	Lebanon	Jacksonville	143	22
	Oviedo	Jacksonville	143	2
	Crystal River	Jacksonville	146	2
	Orlando	Jacksonville	147	10
	Inverness	Jacksonville	150	3
	Homosassa	Jacksonville	155	6
	Perry	Jacksonville	162	8
	Brooksville	Jacksonville	180	3
Total				213
August, 1932	Carbur	Perry	17	1
	Clara	Perry	27	15
	Wauchula	Nocatee	28	4
	Hines	Perry	34	2
	Sarasota	Tampa	53	5
	Francis	Jacksonville	60	9
	Hollister	Jacksonville	68	3
	Inverness	Tampa	74	1
	Seville	Jacksonville	84	7
	Fort White	Jacksonville	91	14
	Crystal River	Tampa	103	1
	Lake City	Jacksonville	113	11
	Ocala	Jacksonville	126	2
	Juliette	Jacksonville	127	1
	Wekiva	Jacksonville	134	6
	Lebanon	Jacksonville	143	6
	Oviedo	Jacksonville	143	22
	Crystal River	Jacksonville	146	12
	Homosassa	Jacksonville	155	14
	Perry	Jacksonville	162	7
Total				143

Wilmington, N. C., November 15, 1932.

[fol. 3096]

EXHIBIT No. 158

I. C. C. Docket 18364

Witness Perrin

Statement Showing Number of Carloads of Long Length Logs (Except Trainloads) Via Atlantic Coast Line Railroad Between Points on Atlantic Coast Line Railroad in Florida.

Monthly in Years 1930, 1931 and 1932

	1930	1931	1932
January	487	200	199
February	353	208	203
March	270	228	165
April	259	187	184
May	231	187	208
June	167	217	185
July	178	199	213
August	201	133	143
September	390	180	.....
October	489	227	.....
November	386	252	.....
December	175	161	.....
	3,586	2,379	1,500
Average per month	282	198	188

Number cars July, 1930, to July, 1931, inclusive 3,245
Number cars August, 1931, to August, 1932, inclusive 2,453
Reduction 2nd Period 792 (24.4%)

Wilmington, N. C., November 15, 1932.

[fol. 3097]

EXHIBIT No. 159

I. C. C. Docket 18364

Witness: Perrin

Statement Showing Number of Carloads of Lumber, Shingles and Laths, Since November, 1929, Originated by Atlantic Coast Line Railroad; Originated by All Class I Railroads in Southern Region, and Originated by All Class I Railroads in the United States; Also Total Number Transported by Atlantic Coast Line Railroad

	Number carloads originated by:		
1st Period	A. C. L. R. R.	All Class I railroads in Southern region	All Class I railroads in United States	Total number carloads transported by A.C.L.R.R.
4th quarter 1929	19,105	426,156	391,209	25,601
1st " 1930	15,827	107,307	260,034	21,411
2nd " 1930	15,420	107,013	266,716	21,703
3rd " 1930	12,796	86,307	218,847	18,322
4th " 1930	11,882	76,788	189,202	16,557
1st " 1931	10,374	67,555	171,090	14,597
Quarterly average	14,234	95,188	234,516	19,698
2nd Period				
2nd quarter 1931	10,980	75,311	183,890	15,924
3rd " 1931	9,187	65,048	158,785	13,485
4th " 1931	8,570	56,756	132,249	12,231
1st " 1932	7,068	45,851	108,712	9,786
2nd " 1932	6,453	.....	.....	9,185
3rd " 1932	5,212	.....	.....	7,573
Quarterly average	7,911	60,741	145,909	11,364

Decrease quarterly average, 2nd period..	6,323(44.4%)	34,447(36.2%)	88,607(37.8%)	8,334(42.3%)

† July and August 3,475; one half added for September.
* July and August 5,049; one half added for September.

Authority: Bureau Statistics, Interstate Commerce Commission.

Wilmington, N. C., November 15, 1932.

[fol. 3098]

EXHIBIT No. 160

I. C. C. Docket 18364

Witness: Perrin

Statement Showing Number Carloads of Lumber, Shingles and Laths Transported by Atlantic Coast Line Railroad Monthly from All Points of Origin on Atlantic Coast Line Railroad in Florida, for Period November, 1929, to March, 1931, Inclusive, and April, 1931, to August, 1932, Inclusive.

	From all points on A. C. L. R. R. in Florida	
(1st Period)		
November 1929	2,117	
December 1929	1,889	
January 1930	1,693	
February 1930	1,701	
March 1930	1,970	
April 1930	1,818	
May 1930	1,647	
June 1930	1,358	
July 1930	1,373	
August 1930	1,304	
September 1930	1,495	
October 1930	1,482	
November 1930	1,321	
December 1930	1,455	
January 1931	1,165	
February 1931	1,193	
March 1931	1,280	
Total	25,961	
(2nd Period)		
April 1931	1,280	
May 1931	1,121	
June 1931	961	
July 1931	819	
August 1931	951	
September 1931	926	
October 1931	1,066	
November 1931	918	
December 1931	829	
January 1932	824	
February 1932	769	
March 1932	711	
April 1932	629	
May 1932	584	
[fol. 3099]		
June 1932	525	
July 1932	477	
August 1932	463	
Total	13,853	
Reduction, 2nd Period	12,108	(46.6%)
For period July, 1930, to July, 1931, inclusive	15,949	
For period August, 1931, to August, 1932, inclusive.	9,672	
Reduction	6,277	(39.4%)

Wilmington, N. C., November 15, 1932.

[fol. 3100] Exhibit No. 162

I. C. C. Docket 18364

Logs Received by F. S. Buffum Company, Inc., by Truck, During 1932

Origin	R. R.	R. R. Av. Miles Haul	Truck	Feet	Carloads
Vicinity of South Jacksonville					
	F. E. C.	12	16	87,215	20 6
Bayard	F. E. C.	18	28	638,269	150 8
Dunnfore	A. C. L.	11	20	346,958	82
Callahan	A. C. L. S. A. L.	19	30	78,748	18 6
Maxville	S. A. L.	28	30	85,167	20 1
Lem Turner Road			22	437,660	103 4
Green Cove Springs	A. C. L.	26	40	120,226	28 4
Doctor's Inlet	A. C. L.	18	38	138,635	32 8
Tisonia	S. A. L.	18	20	41,353	9 8
McClenny	S. A. L.	26	38	55,343	13 1
Yulee	S. A. L.	24	32	146,642	34 6
Lake City Junction	S. A. L. A. C. L.		55	12,101	3
Woodbine, Ga.	S. A. L.	40	50	53,166	12 6
Twelve Mile Swamp	F. E. C.	25	37	985,305	232 9
Baldwin	S. A. L. A. C. L.	20	32	378,199	89 4
					852 1

28 Cars of Logs Received over S. A. L. Railroad During 1932 Originated as Follows:

	Miles		Miles
2 cars Miccanopy	85	14 cars Sumner	119
1 " Brooksville	164	1 " Rosewood	116
8 " Yulee	24	1 " Waccahoota	78
1 " Fairbanks	63		
		16	
12		12	
		28	

The above cars were loaded with ash logs.

[fols. 3101-3119] Second report and order of the Commission on further hearing omitted, printed, side page 418, ante.

[fol. 3120] Order of Jan. 19, 1933 omitted, printed side page 437, ante.

[fol. 3121] Interstate Commerce Commission, Washington

Feb. 24, 1933.

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of the following:

Petition for postponement of effective date of Order for further hearing, and for reconsideration, filed January 25, 1933,

Answer of Defendant, Atlantic Coast Line Railroad Company, to petition of F. S. Buffum Company, Inc., dated January 21, 1933, for postponement of effective date of order and for further hearing and reconsideration, filed January 30, 1933,

Order of the Commission entered February 7, 1933,

Petition on Behalf of Wilson Cypress Company and Wilson Lumber Company of Florida, for further hearing and reconsideration, filed February 7, 1933,

Motion to set aside the final order of the Interstate Commerce Commission and for further hearing and reconsideration, filed February 9, 1933,

Order of the Commission entered February 13, 1933,

Reply of Atlantic Coast Line Railroad Company to motion to set aside the final order of the Interstate Commerce Commission and for further hearing and reconsideration filed on behalf of the State of Florida and the Florida Railroad Commission, filed February 14, 1933, and

Reply of Atlantic Coast Line Railroad Company to the petition on behalf of Wilson Cypress Company and Wilson Lumber Company of Florida, for further hearing and reconsideration, filed February 14, 1933, in Docket No. 18364, [fol. 3122] Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 17th day of February, A. D. 1933.

George B. McGinty, Secretary of the Interstate Commerce Commission. (Seal Interstate Commerce Commission.)

[fols. 3123-3140] Petition for postponement of effective date of order for further hearing, and for reconsideration omitted, printed side page 838, ante.

[fol. 3141] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted]

ANSWER OF DEFENDANT, ATLANTIC COAST LINE RAILROAD COMPANY, TO PETITION OF F. S. BUFFUM COMPANY, INC., DATED JANUARY 21, 1933, FOR POSTPONEMENT OF EFFECTIVE DATE OF ORDER AND FOR FURTHER HEARING AND RECONSIDERATION

Comes now the Atlantic Coast Line Railroad Company, defendant, and for answer to said petition of F. S. Buffum Company, Inc., intervener, respectfully states:

This defendant believes it to be unnecessary to answer separately the various allegations of this petition. When the petitioner, F. S. Buffum Company, Inc., filed, on October 8, 1932, its original petition for leave to intervene and for further hearing, defendant duly filed its answer, dated October 17, 1932, to said petition and fully and specifically replied to each of the allegations thereof. In this answer it was set up, among other things, that this petitioner had not only been dilatory in asserting its interest and in petition-[fol. 3142] ing for leave to intervene, but had likewise failed altogether to show such good cause for the allowance of its intervention at that stage of the proceeding as is contemplated by Rule 11 of the Rules of Practice. The petitioner was nevertheless permitted by the Commission to intervene, and did intervene and offered evidence in the reopened proceeding and was likewise heard in oral argument by its counsel before the presiding Attorney Examiner.

With respect to this new petition for rehearing, it may be observed, in general, that it consists in the main of:

1. A mere reiteration and repetition of matters which were set forth in the original petition abovementioned, which was filed by the same petitioner;

2. A claim that the Attorney Examiner erred in refusing to receive on the rehearing certain evidence, offered by this petitioner, although this evidence was clearly outside of the scope of the order reopening the case, and although it related to the same matters that had been set forth in the

original petition for rehearing and had therefore been considered by the Commission in entering the order of reopening, and in determining and fixing the scope of the issues upon the rehearing, as plainly defined in said order;

3. A reiteration throughout the petition of assertions that various findings of the Commission, as set forth in the report, are not in accordance with what the petitioner conceives to be the weight of the evidence; that these findings are "strongly distorted and highly discolored"; and that [fol. 3143] in the petitioner's view the "evidence shows" various things, although the Commission after full consideration of all of the evidence of both sides has concluded that it shows otherwise. In other words, the Commission is here being asked merely to go over the same ground again;

4. Finally, the petition abounds throughout with criticisms of the Attorney Examiner, and of the Commission itself, of which the very least that can be said is that they closely approach, if not actually transcend, every reasonable limit of propriety—as evidenced by the following, concerning the report of the Commission, which appears on page 17 of this petition:

"Further recital in detail of the errors, omissions, and discolorations of the facts of record is deemed unnecessary. The report as a whole is apparently framed in the attitude of a litigant, attempt(ing) to uphold a preconceived conclusion, contrary to judicial attitude which one is accustomed to find in the Commission's treatment of facts."

Defendant respectfully submits that this litigation has now been prolonged to a point at which the demands of public policy itself would seem to require that it should be ended. Certainly the Commission has accorded to all parties, including the present petitioner, every reasonable opportunity to be fully heard. The case has already been reopened and reheard twice by the Commission. Yet the petitioner is now asking that the Commission reopen and rehear it for the third time. We understand that it was for the very purpose of relieving the Commission, the carriers and the public of the expense and burden of considering endless applications for rehearings that the Commission

has adopted Rule XV (f) of its Rules of Practice, which rule provides as follows:

[fol. 3144] "A second application under paragraph (2) of this rule for rehearing, reargument, reconsideration, or for the vacation of any order, by the same party or parties, and upon the same grounds as a former petition or application, which has been considered and denied, will not be entertained."

This new petition, as we have shown, sets up in large part precisely the same matters which were embraced in the former petition for rehearing, filed by the same petitioner, and that petition was expressly denied by the Commission's order of reopening dated October 21, 1932, except to the extent specifically stated in said order.

It is submitted, therefore, that the petition should be denied.

Respectfully submitted, Atlantic Coast Line Railroad Company, by Robert C. Alston, Carl H. Davis, Frank W. Gwathmey, Its Attorneys.

January 30, 1933.

[fol. 3144a] Before Interstate Commerce Commission

No. 18364

[Title omitted]

Order Denying Petition for Reconsideration Feb. 7, 1933

Upon consideration of petition of intervener F. C. Buffum Company, Inc., for further hearing and reconsideration of the above-entitled proceeding and for postponement of the effective date of the order entered therein on January 9, 1933, and of defendant's answer to said petition;

It is ordered, That said petition be, and it is hereby, denied.

By the Commission.

George B. McGinty, Secretary. (Seal.)

[fols. 3145-3159] Petition on behalf of Wilson Cypress Company and Wilson Lumber Company of Florida for fur-

ther hearing in, and reconsideration of, the above entitled proceeding, on the ground of additional newly discovered evidence omitted, printed side page 692, ante.

[fols. 3160-3178] Motion to set aside the final order of the Interstate Commerce Commission and for further hearing in, and reconsideration of, the above entitled proceeding omitted, printed side page 438, ante.

[fol. 3179] BEFORE INTERSTATE COMMERCE COMMISSION

No. 18364

[Title omitted]

ORDER DENYING PETITIONS FOR RECONSIDERATION—Feb. 13, 1933

Upon consideration of petition of The State of Florida and the Florida Railroad Commission and of petition of interveners Wilson Cypress Company and Wilson Lumber Company of Florida for further hearing and reconsideration of the above-entitled proceeding and for annulment of the order entered therein on January 9, 1933, as amended:

It is ordered, That said petitions be, and they are hereby, denied.

By the Commission.

George B. McGinty, Secretary. (Seal.)

[fol. 3180] BEFORE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

[Title omitted]

REPLY OF ATLANTIC COAST LINE RAILROAD COMPANY TO MOTION TO SET ASIDE THE FINAL ORDER OF THE INTERSTATE COMMERCE COMMISSION AND FOR FURTHER HEARING IN, AND RECONSIDERATION OF THE ABOVE-ENTITLED PROCEEDING, FILED ON BEHALF OF THE STATE OF FLORIDA AND THE FLORIDA RAILROAD COMMISSION, DATED FEBRUARY 4, 1933

Comes now the Atlantic Coast Line Railroad Company, the defendant, and for answer to the motion of the State of

Florida and the Florida Railroad Commission to set aside the final order of the Interstate Commerce Commission and for further hearing in and reconsideration of the above entitled proceeding, respectfully states:

I

This respondent is contemporaneously filing with this Commission its answer to a like petition by Wilson Cypress Company and the Wilson Lumber Company of Florida. The substance of the two petitions is the same, or nearly the same. The answer to one is the answer to both, and [fol. 3181] respondent prays that its answer to the petition of Wilson Cypress Company and Wilson Lumber Company of Florida be treated as an answer to the motion of the State of Florida and the Florida Railroad Commission.

Respectfully submitted, Atlantic Coast Line Railroad Company, by Frank W. Gwathmey, Carl H. Davis, Robt. C. Alston.

February 13, 1933.

[fol. 3182] BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. 18364

GEORGIA PUBLIC SERVICE COMMISSION

versus

ATLANTIC COAST LINE RAILROAD COMPANY

REPLY OF ATLANTIC COAST LINE RAILROAD COMPANY TO THE PETITION ON BEHALF OF WILSON CYPRESS COMPANY AND WILSON LUMBER COMPANY OF FLORIDA FOR FURTHER HEARING IN, AND RECONSIDERATION OF, THE ABOVE-ENTITLED PROCEEDING, ON THE GROUND OF ADDITIONAL NEWLY DISCOVERED EVIDENCE, WHICH SAID PETITION IS DATED FEB. 4, 1933

Comes now the Atlantic Coast Line Railroad Company, the defendant, and for answer to the petition of Wilson Cypress Company and Wilson Lumber Company of Florida for further hearing in and reconsideration of the above-entitled proceeding on the ground of additional newly discovered evidence, respectfully states:

I

Paragraph I, II, and III of petitioners' petition simply refer to orders and rulings of this Commission entered in this cause. Reference is made to the orders of the Commission in this cause.

II.

(a) Answering paragraph IV, petitioners refer to certain rates of Atlantic Coast Line Railroad Company pro [fol. 3183] vided for in its Lumber Transit Tariff I. C. C. B 2745 filed to become effective December 10, 1932 and in Rule 127 of said tariff as "dealing with net transit rates."

Respondent says that the allegations of said paragraph as to said tariff I. C. C. B 2745 are incorrect. The tariff referred to is A. C. L. R. R. Lumber Transit Tariff No. 12, which cancels A. C. L. R. R. Lumber Transit Tariff No. 11, I. C. C. No. B 2639 and the scale of rates referred to in Rule 127 was originally published in Supplement No. 23 to A. C. L. R. R. I. C. C. No. B 2639, effective September 8, 1932, which was prior to the above mentioned reopened hearing before this Commission in this cause had on November 21 22, 1932. The scale of rates provided for by said I. C. C. B 2745 tariff applies to cross arms, cross ties, lumber, piling, poles, and timber, N. O. S. which is milled, creosoted, stored, trimmed and/or dressed in transit at Montgomery, Alabama. The rates provided for by this tariff do not apply to logs. They are transit rates applicable to certain forest products, other than logs, which move to Montgomery over this respondent's lines, for creosoting and other treatment and which products after such treatment, move to market from Montgomery in a back haul over the lines of respondent. Respondent also charges, in addition to the net transit rate 2½ cents per 100 pounds thereon.

(b) Petitioners further refer in said Paragraph IV to Supplement No. 1 to the above mentioned tariff I. C. C. [fol. 3184] B-2745, which was published effective December 10, 1932, fixing rates on lumber, poles, piling and forest products not otherwise specified, to Charleston, South Carolina from certain points of origin. Respondent answers that said tariff does not apply to logs. It further answers that the aforementioned tariff was put into effect August

29, 1932 and the Supplement No. 1 referred to only added some additional stations thereto.

The above mentioned supplement No. 1 to the Atlantic Coast Line Railroad's Lumber transit tariff, I. C. C. B-2745, specifically designates the rates as "extra charges for back or out of route hauls, which is in addition to through rate and stoppage charge."

The rates provided by this tariff are for hauling forest products described therein, not including logs, to Charleston for milling, creosoting, storing, trimming and/or dressing and for reshipment to Virginia cities or points north thereof on the basis of back or out of route hauls.

The rates set out in petitioners' petition in the last right-hand column of Paragraph IV, page 6, are not the rates which are assessed on the original inbound movements, but represent the net transit rate to which is added the transit charge of 2½ cents per 100 pounds.

(c) Petitioners refer to certain rates of Central of Georgia Railway Company stated in its Tariff I. C. C. No. 2851, effective September 27, 1932 to Augusta and Waynesboro, Georgia. The rates referred to in said tariff of the [fol. 3185] Central of Georgia are applicable only when the raw material shipped in over the Central of Georgia has been manufactured and the manufactured product is shipped out over the Central of Georgia, in the proportion set out in the tariff.

The circumstances and conditions under which this rate or tariff went into effect were considered by this Commission at the reopened hearing of this cause on November 21-22, 1932. This tariff was in effect at the time of said reopened hearing.

(d) Petitioners refer to rates of the Louisville & Nashville Railroad Company in its tariff I. C. C. No. 16022, Supplement 19, effective January 27, 1933. The rates provided for in said tariff apply only to raw materials shipped from point of origin to the manufacturing point, when the products manufactured therefrom move out over the lines of the Louisville & Nashville Railroad, in the proportion set out in the tariff. Said tariff is applicable for distances not in excess of 100 miles. This tariff was put into effect under circumstances and conditions exactly similar to

those considered by this Commission in the reopened hearing in this proceeding had on November 21-22, 1932, and covered by its report of January 9, 1933. The rates provided for in said tariff expire August 6, 1933, unless sooner cancelled, changed or extended.

Petitioners allege that said tariff names rates for the transportation of logs over said railroad from Louisville, Kentucky, to Knoxville, Tennessee, a distance of 277 miles, of $29.50 per car. That statement is incorrect.

[fol. 3186] Reference is made to relations between the Louisville & Nashville Railroad Company and the Atlantic Coast Line Railroad Company. Respondent alleges that it does own a controlling share of the voting shares of stock of the Louisville and Nashville Railroad Company and by virtue of that ownership has the right to elect the Board of Directors. It has never exercised control over the traffic policies of the Louisville and Nashville Railroad Company through the ownership of said stock or in any other way whatsoever.

This has been made known to this Commission in this cause and in other causes, one of which is I. & S. Docket 3625. On November 21-22, 1932 in the reopened hearing of this cause before this Commission at Jacksonville, Florida, the Witness Perrin testified as follows (R. 1774):

"Question. Did you and other officials of the Atlantic Coast Line testify fully in that case (the so-called Sand and Gravel Case) as to the extent to which the Atlantic Coast Line Railroad controls the traffic policies of the Louisville & Nashville?

Answer. We did.

Question. What was the testimony given by yourself and others upon that subject?

Answer. The testimony was to the effect that the Atlantic Coast Line had no control whatever over the traffic policies of the Louisville & Nashville Railroad."

The Atlantic Coast Line Railroad and Louisville and Nashville Railroad operate, for the most part, in widely separated territories. The lines of the Louisville and Nashville with those of the Seaboard Air Line from Jacksonville to Pensacola, Florida, make the dividing line in Florida, and the rates south of that line are higher than

[fol. 3187] the rates north of that line. This fact is recognized a number of times by this Commission in this cause and in the reopened hearing therein.

(e) Petitioners refer to rates of the Savannah & Atlanta Railway, in its tariff I. C. C. No. 115, effective July 14, 1930. Respondent calls the Commission's attention to the fact that this tariff was in effect long prior to the reopened hearing had in this case on November 21-22, 1932. The rates stated in this tariff apply only when the products milled from the inbound logs are re-shipped via the Savannah & Atlanta Railway, in accordance with the terms of this tariff.

(f) Petitioners refer to Southern Railway Supplement 7 to tariff I. C. C. 10425, effective December 31, 1932, to expire December 3, 1933. This tariff applies on logs, etc. from Southern Railway stations to Knoxville, Tennessee, from C. N. O. & T. P. stations to Dayton, Tennessee, and from Southern Railway stations to Fayette, Tennessee. The rates under this tariff were published to meet truck competition and are published to expire December 3, 1933 unless sooner cancelled, changed or extended. This Supplement No. 7 was issued in circumstances and conditions already dealt with by this Commission in its reopened hearing of this case on November 21-22, 1932, wherein representatives of the Southern Railway testified. Petitioners state that the rates under the above-mentioned tariff "are almost exactly on the level of the Cummer scale", etc. The Cummer scale of rates has been held by this Commission in this cause, to be unjust and unreasonable, and by [fol. 3188] the United States District Court for the Northern District of Georgia, in the restitution proceedings in this cause, to be unjust, unreasonable, and confiscatory.

The witness, Mr. C. D. Thomas, Assistant General Freight Agent of the Southern Railway System, gave evidence in reference to like situations and rates which had been put into effect by the Southern Railway (R. 1722, evidence Nov. 21-22, 1932). The rates there referred to were described by Mr. Thomas as "truck competitive log rates." The witness Thomas refers in that evidence to Southern Railway's Tariff No. I. C. C. A-10425 and to certain supplements thereto, however, not including Supplement No. 7. The situations described in Mr. Thomas'

testimony in the reopened hearing are exactly similar to those described in this paragraph of the petition.

(g) Petitioners refer to Atlanta, Birmingham & Coast Railroad Company rates under its tariff No. 18, effective October 10, 1927. This tariff specifically excludes logs and besides, the rates under this tariff referred to in petitioners' petition are not rates on the articles which are covered by the tariff, but are only additional charges for the back haul in a transit arrangement.

(h) Petitioners refer to Seaboard Air Line Railway Company's tariff I. C. C. No. A-7528, Supplement No. 8, effective December 11, 1932. This tariff covers rates from stations between Branchville, Va. and Littleton, N. C. (including Branchville and Littleton), and between Severn, N. C. and Lewiston, N. C. (including Severn and Lewiston) to Boykins, Va. Those rates expire June 30, 1933, unless [fol. 3189] sooner cancelled, changed or extended.

Petitioners also refer to Seaboard Air Line's Tariff I. C. C. A-7528, Supplement No. 9, effective December 11, 1932. This tariff expires December 11, 1933 unless sooner cancelled, changed or extended. The scale of rates prescribed by this tariff and Supplements 8 and 9 thereto are stated by petitioners to be "approximately the same as the Cummer scale for said distance," etc. Attention has already been called to the fact that this Commission has held the Cummer scale of rates to be unjust and unreasonable and that the United States District Court for the Northern District of Georgia has also held the Cummer scale of rates to be unreasonable, unjust and confiscatory. The weight of the logs referred to are stated by petitioners to be shown by the record in this cause to be from 10 to 14 pounds per foot. The reference to the record made in the petition does not bear out this statement. There was no discussion in the record at this point, of movement of logs to Boykins, Virginia.

The Supplements to the aforementioned tariff were put into effect in circumstances and conditions exactly analogous to those considered by this Commission in the reopened hearing in this case had on November 21-22, 1932.

(i) Petitioners refer to tariff I. C. C. No. A-760 of the Norfolk and Southern Railroad Company, effective May 15,

1931. This tariff provides for transit rates and besides does not apply to logs..

[fol. 3190] (j) Petitioners refer to tariff I. C. C. No. 558 of the Georgia and Florida Railroad, effective May 6, 1931. This tariff applies only to logs which are shipped over the Georgia and Florida's lines to the transit point and the products manufactured therefrom are reshipped over the same lines in the proportion prescribed in the tariff. The rates in this tariff are alleged by petitioners to be "but slightly more than one-half the rates prescribed by this Commission for application to the transportation of logs over the lines of the Atlantic Coast Line Railroad Company in Florida." They are, therefore, on parity with the rates which have been adjudged by the United States District Court for the Northern District of Georgia, in the restitution feature of this case, to be unreasonable.

III.

Answering the remainder of said petition, respondent says that many of the matters and things referred to therein have heretofore been directly covered by the previous hearings in this cause, and those things which have not been directly covered have been covered in kind; that is, that circumstances like those alleged in this petition were considered by this Commission in the reopened hearing of this case on November 21-22, 1932.

The Atlantic Coast Line Railroad Company for the year 1932 barely earned its operating expenses and after paying its fixed charges, was in deficit approximately six millions dollars. It is important that the losses which are being imposed upon it by the circumstances of this cause, be lessened as early as practicable.

[fol. 3191] IV

This respondent respectfully called attention to Rule XV(f) of the Commission's Rule of Practice, which provides as follows:

"A second application under paragraph (2) of this rule, for rehearing, reargument, reconsideration, or for the vacation of any order, by the same party or parties, and upon the same grounds as a former petition or application, which has been considered and denied, will not be entertained."

It is respectfully submitted that the petition now under consideration sets up, in large measure, the matters and things which have been heretofore considered; and when not exactly the same things and matters, it sets up only matters of the same kind which have been heretofore considered.

V

Respondent respectfully submits that this cause has been under consideration by this Commission since May 26, 1926. It is fast approaching seven years of procedure before this Commission and litigation in the courts.

It is respectfully submitted that the prayers of petitioners' petition be denied and that the order entered by this Commission to become effective February 25, 1933 should not be interfered with.

Respectfully submitted, Atlantic Coast Line Railroad Company, by Frank W. Gwathmey, Carl H. Davis, Robt. C. Alston.

February 13, 1933.

[fol. 3192] IN UNITED STATES DISTRICT COURT

In Equity. Nos. 690, 691 and 695

[Title omitted]

Consolidated Petitions for Injunction

PETITION FOR APPEAL—Filed April 19, 1933

Come now the State of Florida and Eugene S. Matthews, Mamie Eaton-Greene and W. B. Douglass, as and constituting the Florida Railroad Commission, complainants in constituent cause No. 690 above, and Wilson Cypress Company, a corporation, and Wilson Lumber Company of Florida, a corporation, complainants in constituent cause No. 691, and F. S. Buffum Company, Incorporated, a corporation, complainant in constituent cause No. 695 above, and jointly and severally, feeling themselves aggrieved by the final order and decree of the United States District Court for the Northern District of Georgia, dated February 24th, 1933, and entered February 24th, 1933, in the above entitled consolidated cause, do jointly and severally pray that an

[fols. 3193 & 3194] appeal to the Supreme Court of the United States be allowed to them jointly and severally from said final decree, and that citation be issued as provided by law, and a transcript of the record, proceedings and documents upon which said decree was based, duly authenticated, be sent to the Supreme Court of the United States.

Cary D. Landis, Attorney General of the State of Florida. T. T. Turnbull, Special Counsel for Florida Railroad Commission. Henry P. Adair, August G. Gutheim, J. V. Norman, C. G. Ashby, Solicitors for Wilson Cypress Company and Wilson Lumber Company of Florida. Julian E. Fant, F. C. Hillyer, Solicitors for F. S. Buffum Company, Incorporated.

[File endorsement omitted.]

[fol. 3195] IN UNITED STATES DISTRICT COURT

In Equity. Nos. 690, 691 and 695

[Title omitted]

Consolidated Petitions for Injunction

ASSIGNMENT OF ERRORS—Filed April 19, 1933

The State of Florida and Eugene S. Matthews, Mamie Eaton-Greene and W. B. Douglass, as and constituting the Florida Railroad Commission, complainants in constituent cause No. 690, and Wilson Cypress Company and Wilson Lumber Company of Florida, complainants in constituent cause No. 691, and F. S. Buffum Company, Incorporated, complainant in constituent cause No. 695, by their respective counsel, come now, jointly and severally, and in connection with their petition for appeal file the following joint and several assignment of errors on which they will rely on their appeal to the Supreme Court of the United States from the final order or decree of the District Court herein, dated February 24th, 1933.

The District Court erred:

1. In denying the relief prayed in the bills of complaint and supplemental bills of complaint herein.

2. In failing and refusing to suspend, annul and permanently enjoin the orders of the Interstate Commerce Commission herein involved.

[fol. 3196] 3. In holding that an unjust discrimination against interstate commerce had been made to clearly appear.

4. In failing to find that no substantial disparity exists between the Florida Intrastate rates on logs and the general level of rates on logs in interstate commerce in the southern carrier rate group.

5. In failing and refusing to hold that the report and order of the Interstate Commerce Commission of July 5, 1932, as amended, and the report and order of said Commission of January 9, 1933, were unreasonable and arbitrary.

6. In failing and refusing to find that the Interstate Commerce Commission had not made the findings declared by the Supreme Court of the United States to be essential pre-requisites to the making of a valid order of the character here attempted to be made by the Interstate Commerce Commission with respect to Florida intrastate rates on logs.

7. In failing and refusing to find that there was no substantial evidence in the record to support the findings declared by the Supreme Court of the United States to be essential pre-requisites to the making of a valid order of the character here attempted to be made by the Interstate Commerce Commission with respect to Florida intrastate rates on logs.

8. In holding that the findings of fact upon which the Interstate Commerce Commission relied to justify its said orders prescribing intrastate rates were warranted by the evidence and were made to clearly appear by the evidence.

9. In failing and refusing to hold that the Interstate Commerce Commission made no finding of the amount of revenue which had been derived in the past by the Atlantic Coast Line Railroad Company from the particular traffic in question under the existing intrastate rate (the Cummer Scale).

[fol. 3197] 10. In failing and refusing to hold that the evidence warranted no finding by the Interstate Commerce Commission of the amount of revenue which had been de-

rived in the past by the Atlantic Coast Line Railroad Company from the particular traffic in question under the existing intrastate rate (the Cummer Scale).

11. In finding that there was no substantial increase in the log traffic after the Cummer Scale of rates was restored following the decision of the Supreme Court upon the former order of the Interstate Commerce Commission.

12. In holding that the refusal of the Interstate Commerce Commission to require the Atlantic Coast Line Railroad Company to produce information as to the number of cars of logs moving within the State of Florida during each of the years 1926, 1927 and 1928, and as to the revenue derived therefrom, constitutes no cause to upset the order of the Interstate Commerce Commission herein involved.

13. In failing and refusing to hold that the Interstate Commerce Commission made no finding of the amount of revenue which can be reasonably expected to be derived from the traffic in question under the increased intrastate rate which the Interstate Commerce Commission had ordered established.

14. In failing and refusing to hold that the evidence warranted no finding by the Interstate Commerce Commission of the amount of revenue which can be reasonably expected to be derived from the traffic in question under the increased intrastate rate which the Interstate Commerce Commission had ordered established.

15. In finding that the future log traffic under the intrastate rate on the Atlantic Coast Line Railroad in Florida will likely amount to at least 7431 cars per year.

[fol. 3198] 16. In holding that if the log traffic done in Florida on the Cummer Scale is at an out-of-pocket loss, the less of it done the better.

17. In failing and refusing to hold that the Interstate Commerce Commission made no finding that the application of the existing intrastate rate (Cummer Scale) resulted in an impairment of the income of the carrier which caused an undue burden upon the carrier's interstate revenues and obstructed the maintenance of an adequate national transportation system.

18. In failing and refusing to hold that the evidence warranted no finding by the Interstate Commerce Commission that the application of the existing intrastate rate (Cummer Scale) resulted in an impairment of the income of the carrier which caused an undue burden upon the carrier's interstate revenues and obstructed the maintenance of an adequate national transportation system.

19. In failing and refusing to hold that the Interstate Commerce Commission made no finding that an undue burden upon the carrier's interstate revenues and obstruction to the maintenance of an adequate national transportation service existed which was of such character and consequence that it was the affirmative duty of the Interstate Commerce Commission as an important step in maintaining an adequate national railway system to remove such burden and obstruction.

20. In failing and refusing to hold that the evidence warranted no finding by the Interstate Commerce Commission that an undue burden upon the carrier's interstate revenues and obstruction to the maintenance of an adequate national transportation service existed which was of such character and consequence that it was the affirmative duty of the Interstate Commerce Commission as an important step in maintaining an adequate national railway system [fol. 3199] to remove such burden and obstruction.

21. In failing and refusing to hold that the Interstate Commerce Commission made no finding that the alteration of the intrastate rates would produce, or was likely to produce an additional and greater amount of income, and made no finding, that such additional and greater amount of income was necessary to prevent an existing undue burden upon the carrier's interstate revenues and necessary to maintain an adequate national transportation service.

22. In failing and refusing to hold that the evidence warranted no finding by the Interstate Commerce Commission that the alteration of the intrastate rates would produce, or was likely to produce an additional and greater amount of income, and that the evidence warranted no finding that such additional and greater amount of income was necessary to prevent an existing undue burden upon the car-

rier's interstate revenues and necessary to maintain an adequate national transportation service.

23. In failing and refusing to hold that the Interstate Commerce Commission made no finding of the quantity or extent of any burden upon the interstate revenues of the carrier caused by the application of the existing Florida intrastate rate (Cummer Scale).

24. In failing and refusing to hold that the evidence warranted no finding by the Interstate Commerce Commission of the quantity or extent of any burden upon the interstate revenues of the carrier caused by the application of the existing Florida intrastate rate (Cummer Scale).

25. In failing and refusing to hold that in making said orders the Interstate Commerce Commission considered and gave effect to rate comparisons, system average costs and other matters relating to costs of transportation which were incompetent and insufficient to furnish the basis for [fol. 3200] the conclusions reached therefrom and incompetent and insufficient to furnish the basis for any such reports and order.

26. In finding that "In 1928 and 1932 comparisons of these rates (Cummer Scale) with other rates on logs and on similar traffic in the same and neighboring territories showed them to average less than half of most other comparable interstate nad intrastate rates, and to be much the lowest of any of them."

27. In finding that on the question of the cost of the service figures were considered which showed the average cost of hauling logs over the Atlantic Coast Line Railroad system.

28. In holding that Appendix E of the report of the Interstate Commerce Commission is the conclusion of that Commission "as to the cost of hauling logs in Florida for the distance shown to be the average under the Cummer Scale, based on the evidence which had been produced to it as tending to show such cost."

29. In finding that there was "an out-of-pocket loss to the carrier in the log traffic under these rates (Cummer Scale)."

30. In holding that if it appeared that a loss was produced by the State Rates which would in the future be substantial and that the carrier was not in position to absorb it without detriment to its service and support as an interstate carrier, a sufficient case had been made to find an unjust discrimination against interstate commerce and to require its correction.

31. In failing and refusing to hold that the Interstate Commerce Commission by indirection seeks to determine the reasonableness per se of the Florida intrastate rate (the Cummer Scale), a thing which the Supreme Court of the United States has declared lies with the State authority and not with the Interstate Commerce Commission.

[fol. 3201] 32. In failing and refusing to hold that said Interstate Commerce Commission has attempted to prescribe intrastate rates in Florida applicable to territory for which no interstate rates have been prescribed and in which no general investigation of rate levels whether on interstate or on intrastate traffic has been made, and that in so doing the Interstate Commerce Commission has exceeded its authority.

33. In failing and refusing to hold that the Intrastate rates prescribed in said proceeding before the Interstate Commerce Commission are broader in their scope than the interstate rates prescribed in said proceeding, and that said orders of said Commission prescribing said intrastate rates are consequently unlawful.

34. In holding that the proceeding before the Interstate Commerce Commission was one in which a burden by the State rates on the revenues of the carrier was made an issue so that the Commission could properly so find and on that ground prescribe an intrastate rate.

35. In failing and refusing to hold that the question of whether or not the jurisdictional facts exist which warrant the Interstate Commerce Commission in invading the domain of the State of Florida is a judicial question which the Court was bound to determine for itself in this cause, and in failing and refusing to determine the existence or non-existence of such jurisdictional facts independently of any determination thereof by the Interstate Commerce Commission.

36. In failing and refusing to find that the complainants were entitled to a trial de novo by the Court upon the jurisdictional facts which would warrant the Interstate Commerce Commission in invading the domain of the State of Florida by said reports and orders of said Commission, and in failing and refusing to grant such trial upon such facts.

[fol. 3202] 37. In holding that when the question of the existence of the facts with respect to intrastate rates upon the existence of which the power of the Interstate Commerce Commission to act depends, has been tried before that Commission its conclusion affirming the existence of those facts is sufficient to put the burden upon those who deny it.

38. In holding with respect to the power to deal with intrastate rates "that under the enlarged and positive powers with which the Interstate Commerce Commission is vested its findings of fact within the scope of its powers will not be rejected by the Courts if supported by evidence."

39. In holding that in dealing with intrastate rates a plain case to the contrary of the conclusions reached by the Interstate Commerce Commission is necessary to warrant Court interference.

40. In failing and refusing to find that the report and order of the Interstate Commerce Commission of July 5, 1932, as amended, and the report and order of the Interstate Commerce Commission of January 9, 1933, constitute an unlawful exercise of power by said Commission and are without warrant or authority of law.

41. In failing and refusing to find that the reports and orders of the Interstate Commerce Commission herein involved constitute an unlawful invasion of the sovereign rights of the State of Florida reserved to it under the Constitution of the United States and of the citizens of the State of Florida and are without any warrant or authority of or under the Constitution of the United States.

42. In failing and refusing to find that said Interstate Commerce Commission was and is without jurisdiction to enter said reports and orders herein involved.

[fols. 3203 & 3204] 43. In holding that the particular findings of the Interstate Commerce Commission are sufficient

to support the general finding of unjust discrimination by the state rates against Interstate Commerce by undue burden on the Interstate carrier's revenues, and to justify an order removing the discrimination by establishing the new rate prescribed.

44. In sustaining and upholding the orders of the Interstate Commerce Commission made July 5, 1932, and the order of the Interstate Commerce Commission confirming the same made January 9, 1933.

Wherefore the complainants, jointly and severally, pray that the final order or decree of the District Court dated February 24, 1933, be reversed and that the matter be remanded to said Court with instructions to suspend, annul and permanently enjoin said order of the Interstate Commerce Commission made July 5, 1932, and the order of said Commission confirming the same made January 9, 1933, in the said proceeding before said Commission in its Docket No. 18364 entitled Georgia Public Service Commission v. Atlantic Coast Line Railroad Company.

Cary D. Landis, Attorney General of the State of Florida. T. T. Turnbull, Special Council for Florida Railroad Commission. Henry P. Adair, August G. Gutheim, J. V. Norman, C. G. Ashby, Solicitors for Wilson Cypress Company and Wilson Lumber Company of Florida. Julian E. Fant, F. C. Hillyer, Solicitors for F. S. Buffum Company, Incorporated.

[File endorsement omitted.]

[fol. 3205] IN UNITED STATES DISTRICT COURT

In Equity. Nos. 690, 691 and 695

[Title omitted]

Consolidated Petitions for Injunction

ORDER GRANTING APPEAL—Filed April 22, 1933

The State of Florida, and E. S. Matthews, Mamie Eaton-Greene, and W. B. Douglass, as and constituting the Flor-

ida Railroad Commission, complainants in constituent cause No. 690, and Wilson Cypress Company and Wilson Lumber Company of Florida, complainants in constituent cause No. 691, and F. S. Buffum Company, Incorporated, complainant in constituent cause No. 695, having filed their joint and several petition for appeal from the final decree made and entered on February 24th, 1933, in said Consolidated Cause, and having likewise filed their joint and several assignment of errors and jointly and severally presented a typewritten statement of the basis upon which they jointly and severally contend that the Supreme Court of the United States has jurisdiction upon appeal to review the said final [fols. 3206 & 3207] decree, upon consideration,

It is ordered that the said petition for appeal be and the same hereby is granted, and the complainants are hereby allowed jointly and severally to appeal from said final decree in the above entitled Consolidated Cause,

It is further ordered that said appeal be and the same is hereby entered to the Supreme Court of the United States upon the filing of a bond by the complainants in the sum of Five Hundred & 00/100 ($500.00), with a good and sufficient surety, to be approved by this Court, conditioned upon the said complainants prosecuting said appeal to effect and answering all damages and costs if they fail to make their plea good.

Done and Ordered this 19th day of April, A. D. 1933.

Samuel H. Sibley, United States Circuit Judge. E. Marvin Underwood, United States District Judge. Lonie W. Strum, United States District Judge.

[File endorsement omitted.]

[fols. 3208–3211] Bond on Appeal for $500.00, approved and filed April 22, 1933, omitted in printing.

[fols. 3212-3217] Citation in usual form showing service on Elmer B. Collins et al., filed April 22, 1933, omitted in printing.

[fol. 3218] IN UNITED STATES DISTRICT COURT

In Equity. Nos. 690, 691, and 695

[Title omitted]

Consolidated Petitions for Injunction

NOTICE OF APPEAL—Filed May 2, 1933

To the United States of America, Interstate Commerce Commission, Georgia Public Service Commission, and Atlantic Coast Line Railroad Company, Defendants; and the Honorable the Attorney General of the State of Georgia:

Please take notice that by order of the above entitled Court, made and entered April 19th, 1933, appeal to the Supreme Court of the United States by the State of Florida and Eugene S. Matthews, Mamie Eaton-Greene and W. B. Douglass, as and constituting the Florida Railroad Commission, complainants in constituent cause No. 690, and [fols. 3219-3221] Wilson Cypress Company and Wilson Lumber Company of Florida, complainants in constituent cause No. 691, and F. S. Buffum Company, Incorporated, complainants in constituent cause No. 695, has been taken and allowed in the above entitled consolidated cause.

Cary D. Landis, Attorney General of the State of Florida. T. T. Turnbull, Special Counsel for Florida Railroad Commission. Henry P. Adair, August G. Gutheim, J. V. Norman, C. G. Ashby, Solicitors for Wilson Cypress Company and Wilson Lumber Company of Florida. Julian E. Fant, F. C. Hillyer, Solicitors for F. S. Buffum Company, Incorporated.

Received a copy of the foregoing notice this 19 day of April, A. D. 1933.

Atlantic Coast Line Railroad Company, by F. B. Grier, Carl H. Davis, W. E. Kay, Alston, Alston, Foster & Moise, Its Attorneys. Ga. Public Service Commission, by J. J. E. Anderson, Special Atty. M. J. Youmans, Atty. General of Ga., by J. J. E. Anderson, Assistant.

[File endorsement omitted.]

[fols. 3222-3224] Received a copy of the foregoing notice this 22nd day of April, A. D. 1933.

J. Stanley Payne, for Interstate Commerce Commission.

[File endorsement omitted.]

[fols. 3225-3226] Received a copy of the foregoing notice this 21st day of April, A. D. 1933.

Elmer B. Collins, Special Assistant to the Attorney General for the United States.

[File endorsement omitted.]

[fol. 3227] In United States District Court

In Equity. Nos. 690, 691, and 695

[Title omitted]

Consolidated Petitions for Injunction

Præcipe for Transcript of Record—Filed May 2, 1933

To the Clerk of the above-entitled Court:

Please prepare a transcript of the record in the above entitled consolidated cause in the matter of appeal therein, and include in said transcript in the order given below the following matter, viz:

Matter Entitled in No. 690

1. Bill of Complaint filed by complainants September 9, 1932, together with the Exhibits therein mentioned and made a part thereof.

[fol. 3228] 2. Petition for Intervention by Atlantic Coast Line Railroad Company and Order dated September 14, 1932, granting Petition, filed September 14, 1932.

3. Motion to Dismiss and Answer of Atlantic Coast Line Railroad Company, filed September 14, 1932.

4. Answer of Interstate Commerce Commission, filed September 14, 1932.

5. Temporary Restraining Order made and entered by the Court September 14, 1932.

6. Answer of United States of America, filed September 22, 1932.

7. Supplemental Bill of Complaint filed by complainants February 24, 1933, together with the Exhibits therein mentioned and made a part thereof, and minutes of February 24, 1933, of Court allowing such filing.

8. Answer of United States of America to the Supplemental Bill of Complaint, filed February 24, 1933.

9. Answer of Interstate Commerce Commission to the Supplemental Bill of Complaint, filed February 24, 1933.

10. Motion of Atlantic Coast Line Railroad Company to deny the petition to file the Supplemental Bill of Complaint filed February 24, 1933.

11. Answer of Atlantic Coast Line Railroad Company to the Supplemental Bill of Complaint filed February 24, 1933.

12. Petition of Georgia Public Service Commission to Intervene, filed February 24, 1933, and minutes of February 24, 1933, of Court allowing such intervention.

[fol. 3229] 13. Motion of Georgia Public Service Commission to deny the Petition to file the Supplemental Bill of Complaint, filed February 24, 1933.

14. Answer of Georgia Public Service Commission to the Supplemental Bill of Complaint, filed February 24, 1933.

Matter Entitled in No. 691

15. Bill of Complaint filed by complainants September 9, 1932, together with the Exhibits therein mentioned and made a part thereof.

16. Petition for Intervention by Atlantic Coast Line Railroad Company and Order dated September 14, 1932, granting Petition, filed September 14, 1932.

17. Motion to Dismiss and Answer of Atlantic Coast Line Railroad Company, filed September 14, 1932.

18. Answer of Interstate Commerce Commission, filed September 14, 1932.

19. Temporary Restraining Order made and entered by the Court September 14, 1932.

20. Answer of United States of America, filed September 22, 1932.

21. Supplemental Bill of Complaint filed by complainants February 24, 1933, together with the Exhibits therein men-

tioned and made a part thereof, and minutes of February 24, 1933, of Court allowing such filing.

22. Answer of United States of America to the Supplemental Bill of Complaint, filed February 24, 1933.

23. Answer of Interstate Commerce Commission to the Supplemental Bill of Complaint, filed February 24, 1933.

[fol. 3230] 24. Motion of Atlantic Coast Line Railroad Company to deny the petition to file the Supplemental Bill of Complaint, filed February 24, 1933.

25. Answer of Atlantic Coast Line Railroad Company to the Supplemental Bill of Complaint filed February 24, 1933.

26. Petition of Georgia Public Service Commission to Intervene, filed February 24, 1933, and minutes of February 24, 1933, of Court allowing such intervention.

27. Motion of Georgia Public Service Commission to deny the Petition to file the Supplemental Bill of Complaint, filed February 24, 1933.

28. Answer of Georgia Public Service Commission to the Supplemental Bill of Complaint, filed February 24, 1933.

Matter Entitled in No. 695

29. Bill of Complaint filed by complainant October 14, 1932, together with the Exhibits therein mentioned and made a part thereof.

30. Stipulation extending time for filing of answers, filed November 17, 1932, and order entered upon said stipulation so extending time for filing answers made and entered by the Court November 17, 1932.

31. Motion for leave to file supplemental bill of complaint, filed February 13, 1933, and order allowing such motion, made and entered February 13, 1933.

32. Supplemental bill of complaint filed by complainant February 13, 1933, together with the exhibits therein mentioned, and made a part thereof.

[fol. 3231] 33. Answer of United States of America to the original bill of complaint, filed February 24, 1933.

34. Answer of United States of America to the Supplemental bill of complaint, filed February 24, 1933

35. Answer of Interstate Commerce Commission to Supplemental Bill of Complaint, filed February 24, 1933.

36. Petition of Atlantic Coast Line Railroad Company to intervene and minutes of February 24, 1933, of Court allowing such intervention.

37. Answer of Atlantic Coast Line Railroad Company to the original bill of complaint, filed February 24, 1933.

38. Motion of Atlantic Coast Line Railroad Company to dismiss, filed February 24, 1933.

39. Motion of Atlantic Coast Line Railroad Company to deny the petition to file the supplemental bill of complaint, filed February 24, 1933.

40. Answer of Atlantic Coast Line Railroad Company to the supplemental bill of complaint filed February 24, 1933.

41. Petition of Georgia Public Service Commission to intervene, filed February 24, 1933, and minutes of February 24, 1933, of Court allowing such intervention.

42. Motion of Georgia Public Service Commission to deny the petition to file the supplemental bill of complaint, filed February 24, 1933.

43. Answer of Georgia Public Service Commission to the Supplemental Bill of Complaint, filed February 24, 1933.

[fol. 3232] Matter Entitled in the Consolidated Cause

44. Order of Court made and entered February 24, 1933, consolidating the three proceedings, numbers 690, 691 and 695, into one bill, and directing that said proceedings thereafter proceed as a single cause.

45. Certified copy of transcript of record of the evidence and proceedings before the Interstate Commerce Commission in the matter entitled number 18364, Georgia Public Service Commission versus Atlantic Coast Line Railroad Company, offered in evidence by complainants in said three proceedings numbered 690, 691 and 695 (or in lieu thereof any narrative statement of the record of said evidence and proceedings agreed upon by the parties and/or approved by the Court).

46. Opinion of the Court dated and filed February 24, 1933.

47. Final decree of the Court, dated and filed February 24, 1933.

48. Petition for appeal filed by complainant April 19, 1933.

49. Assignment of Errors filed by complainants April 19, 1933.

50. Statement by complainants of the jurisdiction of the Supreme Court to review upon appeal, filed April 19, 1933.

51. Order of the above entitled Court granting appeal, dated April 19, 1933.

52. Bond on appeal, approved April 19, 1933, filed April 22, 1933.

53. Citation on appeal, dated April 19, 1933.

[fol. 3233] 54. Proof of service, dated April 19, 1933, and acknowledgments of service thereof.

55. This præcipe for transcript of record.

56. All acknowledgments of receipt of copies of petition for appeal, assignment of errors, statement of jurisdiction, order granting appeal, citation on appeal and præcipe for transcript of record; such acknowledgements being signed by attorneys for United States of America, Interstate Commerce Commission, Georgia Public Service Commission and Atlantic Coast Line Railroad Company.

Cary D. Landis, Attorney General of the State of Florida. T. T. Turnbull, Special Counsel for Florida Railroad Commission. Henry P. Adair, August G. Gutheim, J. V. Norman, C. G. Ashby, Solicitors for Wilson Cypress Company and Wilson Lumber Company of Florida. F. C. Hillyer, Julian E. Fant, Solicitors for F. S. Buffum Company, Incorporated.

[File endorsement omitted.]

[fols. 3234 & 3235] [Stamp:] U. S. District Court. Filed in Clerk's Office May 5, 1933. J. D. Steward, Clerk, United States District Court, Northern District of Georgia.

Department of Justice, Office of the Assistant to the Attorney General, Washington,

May 3, 1933.

STATE OF FLORIDA et al.

v.

UNITED STATES et al.

In Equity. Nos. 690, 691 and 695

Olin M. Fuller, Esq., Clerk, U. S. District Court, Atlanta, Georgia:

DEAR SIR: The undersigned acknowledges receipt and service on this date of copy of complainants' "Præcipe for

Transcript of Record" and copy of "Citation," issued in the above-entitled proceedings April 19, 1933.

Copy of this acknowledgment is being sent to Knight, Adair, Cooper & Osborne, Atlantic National Bank Building, Jacksonville, Florida, counsel for complainants.

Yours very truly, Elmer B. Collins, Special Assistant to the Attorney General.

[fols. 3236 & 3237] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 3238] In United States District Court

In Equity. Nos. 690, 691 and 695

[Title omitted]

Consolidated Petitions for Injunction

Order Directing Transmittal of Original Record Upon Appeal—Filed July 28, 1933

This cause coming on to be heard this day upon motion of the complainants for an order directing the original record, instead of a transcript thereof, to be transmitted to the Supreme Court of the United States upon the appeal herein, and it appearing that the parties hereto have by stipulation agreed to the entry of such order, upon consideration

It is ordered and adjudged that the original record herein, instead of a transcript thereof, be, and the same is hereby directed to be transmitted to the Supreme Court of the United States upon the appeal herein.

Done and ordered at Atlanta, Georgia, this 26 day of July, A. D. 1933.

Sam'l H. Sibley, United States Circuit Judge. Louie W. Strum, United States District Judge. E. Marvin Underwood, United States District Judge.

[File endorsement omitted.]

[fol. 3239] IN UNITED STATES DISTRICT COURT

In Equity. Nos. 690, 691 and 695

[Title omitted]

Consolidated Cause

ORDER ENLARGING TIME WITHIN WHICH TO DOCKET THE CASE AND FILE THE RECORD THEREOF—Filed in U. S. Supreme Court May 27, 1933

It appearing that the parties and their respective counsel are distant; and that an enlargement of the time is required to reduce to narrative statement the testimony contained in the voluminous record of evidence and proceedings before the Interstate Commerce Commission, now a part of the record before this Court, and to assemble, prepare and certify the transcript of the record of this Court on the appeal from the decree of this Court, and for other good cause shown,

It is ordered that the time within which the appellants shall furnish, serve and file in the office of the Clerk of this Court their narrative statement of evidence offered before the District Court and their designation for the record of [fols. 3240 & 3241] additional appeal papers which have been filed, and in which to docket the case and file the record therein with the Clerk of the Supreme Court of the United States, be, and it is hereby enlarged to and including Aug. 15, 1933.

Done and ordered, this 16 day of May, A. D. 1933.

Samuel H. Sibley, United States Circuit Judge. E. Marvin Underwood, United States District Judge. Louie W. Strum, United States District Judge.

[fol. 3242] [File endorsement omitted.]

[fol. 3243] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS UPON WHICH APPELLANTS INTEND TO RELY AND OF THE PARTS OF THE RECORD WHICH ARE NECESSARY FOR THE CONSIDERATION THEREOF—Filed Aug. 18, 1933

The State of Florida, E. S. Matthews, et al., constituting the Railroad Commission of Florida, Wilson Cypress Com-

pany, Wilson Lumber Company of Florida, F. S. Buffum [fol. 3244] Company, Inc., appellants in this appeal for the reversal of the decree of the United States District Court for the Northern District of Georgia, Atlanta Division, jointly and severally rely upon all the points raised by their assignments of error herein, including, among others, the following points:

1. The Interstate Commerce Commission has failed to make the basic or essential findings necessary to support its order prescribing intrastate rates on logs for statewide application in Florida over the lines of the Atlantic Coast Line Railroad. There is no substantial evidence before the Commission to support such findings. (This point is applicable to assignments of error numbered 1 to 10, inclusive.)

2. There was no finding and no evidence of the amount of revenue which had been derived by the carrier from the particular traffic in question under the Cummer scale of rates. (This point is applicable to assignments of error numbered 6, 7, 9, 10 and 29.)

3. There was no finding as to the amount of revenue which can reasonably be expected to be derived by the carrier from the traffic in question "under the increased rates". (This point is applicable to assignments of error numbered 12, 13, 14 and 15.)

[fol. 3245] 4. There was no sufficient finding and no evidence upon which the Commission could base a sufficient finding that the alteration of the intrastate rate would produce or was likely to produce additional income necessary to prevent an undue burden and to maintain an adequate (national) transportation system. (This point is applicable to assignments of error numbered 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 17 to 31 inclusive.)

5. Such findings and estimates as were made by the Interstate Commerce Commission with respect to the revenue which might be derived in the future from the traffic in question were confined wholly to findings and estimates relating to "normal economic conditions" and had no relation to the economic era in which the said order was made and for which the Interstate Commerce Commission pre-

scribed statewide intrastate rates in Florida. (This point is applicable to assignments of error numbered 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and 17 to 31 inclusive.)

6. The cost and revenue studies founded upon system averages are insufficient to supply the essential facts as to the particular traffic and revenue and the effect of the intrastate rates, existing and future, upon the income of the carrier. (This point is applicable to assignments of error numbered 1, 2, 3, 5 to 11 inclusive, 14 to 31 inclusive.)

[fols. 3246 & 3247] 7. The Court erroneously assumed that the Interstate Commerce Commission had found the average cost of hauling logs over the Coast Line System, whereas the Commission made no such finding and there was no evidence of record upon which any such finding could be based. (This point is applicable to assignment of Error numbered 27.)

8. The rate comparisons furnish no cause for the invasion of the State domain by the Federal power. (This point is applicable to assignments of error numbered 1 to 5 inclusive.)

9. The jurisdictional facts required by the Constitution and Laws of the United States to justify the invasion of State domain by the Interstate Commerce Commission have not been made to "clearly appear". The record contains no evidence to support the jurisdictional facts which must be made to "clearly appear". The Interstate Commerce Commission is without the power to prescribe intrastate rates unless the "jurisdictional facts" authorizing such action have been made to "clearly appear". (This point is applicable to assignments of error numbered 34 to 37 inclusive.)

[fol. 3248] 10. The existence of such jurisdictional facts is a judicial question which must be determined by the judicial branch of the Government irrespective of any findings which may have been made by the Interstate Commerce Commission. (This point is applicable to assignments of error numbered 34 to 37 inclusive.)

11. The State of Florida in due season demanded a trial de novo upon the jurisdictional facts, the findings and determination of which were essential to justify the invasion

of State domain by the Interstate Commerce Commission. Such trial de novo was refused and the rights of the State of Florida, its Attorney General and the Florida Railroad Commission were duly saved and are relied upon here. (This point is applicable to assignment of error numbered 36.)

12. Neither the showing before the Interstate Commerce Commission nor the investigation made by it was sufficient to warrant that Commission in imposing its will upon the sovereign State, statewide and without exception. (This point is applicable to assignment of error numbered 41.)

13. The investigation and findings with respect to the interstate rates were limited to points of origin in North Florida. The Commission made no investigation with respect to the interstate rates from Florida to Georgia else- [fol. 3249] where than in Northern Florida and was without the power under such circumstances to fix the intrastate rates for statewide application beyond the sphere in which the interstate rates were prescribed. (This point is applicable to assignments of error numbered 32, 33, 34 and 44.)

14. The order of the Interstate Commerce Commission being statewide in its scope was beyond the scope of the issue on which the controversy was tried before the Interstate Commerce Commission. (This point is applicable to assignments of error numbered 32, 33, 34, 42 and 44.)

15. The limitation of the Commission's finding as to the interstate rates and of the order prescribing them for transportation from points in the Northern part of Florida to points in Georgia define the interstate commerce which was deemed to be concerned. In its report the Interstate Commerce Commission found that the interstate commerce involved was potential, no actual movement from Florida to Georgia having been shown. During the two years in which the unlawful order of the Interstate Commerce Commission (heretofore set aside by this Court), and a parity of interstate and intrastate rates were in effect, no movement of logs from Florida to Georgia occurred and the Interstate Commerce Commission in its report of July 5th, [fol. 3250] 1932, so found. So that there was and is no interstate commerce from Florida to Georgia to be protected from unjust discrimination as between persons and

localities. (This point is applicable to assignments of error numbered 32, 33, 34, and 44.)

16. Even if it were possible to find any unjust discrimination against interstate commerce in this proceeding there was no finding and no evidence upon which the Commission could base a finding that that discrimination was of such character and consequence that it was the affirmative duty of the Commission, as an important step in maintaining an adequate national railway, to remove it. (This point is applicable to assignments of error numbered 17 to 26 inclusive, and 30, 43 and 44.)

17. The report and orders of the Interstate Commerce Commission are unreasonable and arbitrary. (This point is applicable to assignments of error numbered 5, 25, 43 and 44.)

18. The rates prescribed by the Interstate Commerce Commission for the transportation of logs in intrastate commerce in Florida between points in Florida was a minimum rate, and not otherwise. The rate prescribed by the Interstate Commerce Commission for the transportation of logs from points in North Florida to destinations in [fol. 3251] Georgia was a maximum rate, and not otherwise. At no time or place has the Interstate Commerce Commission attempted to prescribe other than maximum rates for the transportation of logs in intrastate commerce or in interstate commerce in the Southern Rate Group. The fixing of minimum rates on logs over the Atlantic Coast Line in Florida was arbitrary. (This point is applicable to assignments of error numbered 5, 25, 43 and 44.)

19. At or about the time that said minimum rates were prescribed for the transportation of logs for intrastate commerce in Florida, the Interstate Commerce Commission permitted the establishment of intertsate rates and intrastate rates within and between more than thirteen Southern and Southwestern states, over the lines of more than twenty interstate carriers, for the transportation of logs found by said Commission to be substantially on the level of the Cummer Scale, and upon a level substantially one-half of the minimum scale prescribed by the Interstate Commerce Commission for the transportation of logs in

trastate over the Atlantic Coast Line in Florida. The action of said Interstate Commerce Commission in this regard was arbitrary, oppressive and unreasonable. (This point is applicable to assignments of error numbered 5, 25, 43 and 44.)

[fol. 3252] 20. On January 9th, 1933, and on July 5th, 1932, the times at which the Interstate Commerce Commission entered its second and first reports on the further hearing, there was no substantial disparity between the Cummer Scale of Florida intrastate log rates and the general level of interstate log rates in the Southern Rate Group, as the Interstate Commerce Commission had permitted and was then permitting such general level to be fixed. During the several months preceding the filing of the Commission's second report on further hearing the Commission had permitted and was then permitting the general level of interstate and intrastate log rates in the predominant part of Southern territory to be fixed on a substantial parity with that of the Cummer scale. Hence, the Commission was without the power to interfere with the intrastate rates in Florida. In attempting to do so its action was arbitrary and unreasonable. (This point is applicable to assignments of error numbered 1 to 5, inclusive; and 32 and 33.)

21. The prescription by the Interstate Commerce Commission of the scale of minimum rates for application on Florida intrastate log traffic over the Atlantic Coast Line when newly reduced rates upon the approximate level of the Cummer scale have been permitted by the Interstate Commerce Commission to become effective over many lines of railroads in many states creates a new and most unjust discrimination within the Southern Rate Group. (This point is applicable to assignments of error numbered 3 and 4.)

[fol. 3253] 22. An order of the Interstate Commerce Commission must be set aside even when in form it is within the delegated powers, if it is shown that it is an abuse or misuse of the Federal power delegated. (This point is applicable to Assignments of error numbered 40 to 44, inclusive).

23. The order of the Interstate Commerce Commission was made without any substantial evidence to support it.

This point is applicable to assignments of error numbered 4, 6, 7, 9 to 30 inclusive, and 44).

24. The proceeding was not appropriate nor was the hearing sufficient. (This point is applicable to assignments of error numbered 28, 29, 32, 34 and 36).

25. The order of the Interstate Commerce Commission was beyond the scope of the power conferred upon it by the acts of Congress or any of them. (Applicable to assignments of error numbered 1, 2, 6, 31, 32, 32, 33, 40, 42 and 44).

26. The construction placed upon Section 13 of the Interstate Commerce Act as amended, by the Interstate Commerce Commission and the District Court would render the said section unconstitutional and void. (Applicable to assignments of error numbered 32 to 39 inclusive, and 44).

[fol. 3254] 27. The administrative action taken by the Interstate Commerce Commission under the Interstate Commerce Act as amended is in violation of the rights reserved to the State of Florida under the Tenth Amendment of the Federal Constitution. (Applicable to assignments of error numbered 21, 32, 34, 40, 42 and 44).

28. The District Court should have granted the relief prayed in the bills and supplemental bills and should have granted the permanent injunction prayed. (Applicable to assignments of error numbered 1, 2, 40 to 44 inclusive).

Parts of the Record Necessary for the Consideration of the Points Above Mentioned

And the said appellants respectfully represent that the whole of the record is necessary for the consideration of the points above specified.

Respectfully submitted, Cary D. Landis, Attorney General, State of Florida. Theo. T. Turnbull, Special Counsel, Florida Railroad Commission. Henry P. Adair, August G. Gutheim, Clarence G. [fol. 3255] Ashby, Counsel, Wilson Cypress Company. J. V. Norman, Counsel, Wilson Lumber Company of Florida. Julian E. Fant, F. C. Hillyer, Counsel, F. S. Buffum Company, Inc.

Service of copy of foregoing Statement of Points relied upon is hereby acknowledged this August 18th, A. D. 1933.

J. Crawford Biggs, Solicitor General (A. Q.), for United States of America, Appellee. J. Stanley Payne, for Interstate Commerce Commission.

Service of copy of foregoing Statement of Points relied upon is hereby acknowledged this August 17th A. D., 1933.

J. P. Witchart, Chairman, Georgia Public Service Commission. F. B. Grier, Carl H. Davis, W. E. Kay, Robert C. Alston, Atlantic Coast Line Railroad. M. J. Yeomans, Attorney General, State of Georgia.

[fol. 3256] [File endorsement omitted.]

[fol. 3257] IN SUPREME COURT OF THE UNITED STATES

STIPULATION AS TO PRINTING RECORD AND EXHIBITS—Filed Nov. 20, 1933

It is stipulated by the parties hereto that the following shall govern the printing of the record of the District Court in the appeal in the above-entitled cause:

Omit from printing the following exhibits introduced before the Interstate Commerce Commission in the rehearings in Docket No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, (which are part of Petitioners' Exhibits before the District Court):

[fols. 3258 & 3259] Nos. 56 to 60 inclusive, and No. 62.
No. 100.
No. 129.
No. 130.
No. 139
No. 140.
No. 146.
No. 147.
No. 148.
No. 161.
No. 163.

With the above exceptions the entire record now on file shall be printed in the customary manner.

Counsel for appellants shall, before the cause comes up for argument in the Supreme Court, furnish to the Clerk ten copies of the said exhibits so omitted from printing, which exhibits shall be suitably bound for submission to the justices of the Court, and which shall have the same force and effect and be treated for all purposes as if they were a part of the printed transcript of the record.

It is further agreed that this stipulation shall be printed by the Clerk as part of the record on appeal.

Cary D. Landis, Atty. Genl. of State of Florida; T. T. Turnbull, Special Counsel for Florida Railroad Commission; H. P. Adair, August G. Gutheim, C. G. Ashby, J. V. Norman, Counsel for Appellants. Elmer B. Collins, for United States of America. J. Stanley Payne, for Interstate Commerce Commission. Robt. C. Alston, for Atlantic Coast Line Railroad Co. J. J. E. Anderson, Assistant Atty. Gen., for Georgia Public Service Commision, Appellees.

[fol. 3260] [File endorsement omitted.]

Endorsed on cover: File No. 37,945. N. Georgia D: C. U. S. Term No. 342. State of Florida, Eugene S. Matthews, Mamie Eaton-Greene and W. B. Douglass, etc., et al., Appellants, vs. The United States of America, Interstate Commerce Commission, Georgia Public Service Commission and Atlantic Coast Line Railroad Company. Filed August 14, 1933. File No. 342, O. T., 1933.